

## THE TERRORISM TRADE-OFF - FOCUS ON NATIONAL SECURITY AFTER 9/11 MEANS THAT THE FBI HAS TURNED ITS BACK ON THOUSANDS OF WHITE-COLLAR CRIMES

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Thousands of white-collar criminals across the country are no longer being prosecuted in federal court - and, in many cases, not at all - leaving a trail of frustrated victims and potentially billions of dollars in fraud and theft losses.

It is the untold story of the Bush administration's massive restructuring of the FBI after the terrorism attacks of 9/11.

Five-and-a-half years later, the White House and the Justice Department have failed to replace at least 2,400 agents transferred to counterterrorism squads, leaving far fewer agents on the trail of identity thieves, con artists, hatemongers and other criminals.

Two successive attorneys general have rejected the FBI's pleas for reinforcements behind closed doors.

While there hasn't been a terrorism strike on American soil since the realignment, few are aware of the hidden cost: a dramatic plunge in FBI investigations and case referrals in many of the crimes that the bureau has traditionally fought, including sophisticated fraud, embezzlement schemes and civil rights violations.

"Politically, this trade-off has been accepted," said Charles Mandigo, a former FBI congressional liaison who retired four years ago as special agent in charge in Seattle. "But do the American people know this trade-off has been made?"

Among the findings of a six-month Seattle P-I investigation, analyzing more than a quarter-million cases touched by FBI agents and federal prosecutors before and after 9/11:

Overall, the number of criminal cases investigated by the FBI nationally has steadily declined. In 2005, the bureau brought slightly more than 20,000 cases to federal prosecutors, compared with about 31,000 in 2000 - a 34 percent drop.

White-collar crime investigations by the bureau have plummeted in recent years. In 2005, the FBI sent prosecutors 3,500 cases - a fraction of the more than 10,000 cases assigned to agents in 2000.

In Western Washington, the drop has been even more dramatic. Records show that the FBI sent 28 white-collar cases to prosecutors in 2005, down 90 percent from five years earlier.

Civil rights investigations, which include hate crimes and police abuse, have continued a steady decline since the late 1990s. FBI agents pursued 65 percent fewer cases in 2005 than they did in 2000.

Already hit hard by the shift of agents to terrorism duties, Washington state's FBI offices suffer from staffing levels that are significantly below the national average.

While other federal agencies have stepped in to pick up more of the load in drug enforcement, and the FBI has worked to keep agents on Indian reservations, the gaps created by the Bush administration's war on terrorism are troubling to criminal justice experts, police chiefs - even many current and former FBI officials and agents.

"There's a niche of fraudsters that are floating around unprosecuted," said one recently retired top FBI official, who spoke on condition of anonymity. "They are not going to jail. There is no law enforcement solution in sight."

In most cases, local law enforcement agencies haven't been able to take up the slack.

Seattle police Chief Gil Kerlikowske said his department isn't as equipped to handle complex white-collar investigations - particularly when officers must also join anti-terrorism efforts and when federal funding for local police departments has shrunk.

Whether the solution is to hire more FBI agents or shift some away from the counterterrorism effort, he said, more resources should be devoted to solving white-collar crime.

"This is like the perfect storm," Kerlikowske said. "It's now five years later. We should be rethinking our priorities."

A solution can't come soon enough for a growing number of discouraged fraud victims: A 75-year-old Issaquah woman who was allegedly

swindled out of more than \$1 million. A cancer patient whose identity was stolen from a Seattle hospital. People who fell victim to a nationwide investment scam worth about \$70 million.

They all sought the FBI's help. They got little or none.

"As far as I'm concerned, the FBI has no interest in protecting people from these kinds of crimes," said Lloyd Martindale Jr., a Bellingham man who put \$500,000 into an investment con and is still fighting to get some of it back. "They were not responsive to this at all."

If the FBI had continued investigating financial crimes at the same rate as it had before the World Trade Center came down, about 2,000 more white-collar criminals would be behind bars, according to the P-I analysis, which was based on Justice Department data from 1996 through June 2006. Since 9/11, the number of white-collar convictions in federal courts has dropped about 30 percent.

White-collar crimes often affect the people least able to afford it - lower-income and elderly people, according to Peter Henning, a former Justice prosecutor who teaches law at Wayne State University in Detroit. "If you keep it small, and act quickly and get out of the jurisdiction, you can avoid being prosecuted," he said. "Scam artists know that."

Large numbers of FBI agents also were transferred out of violent-crime programs because bureau officials knew that local police - who have overlapping jurisdiction in violent crimes - would have to help.

The retired FBI official said the Bush administration is forcing the bureau to "cannibalize" its traditional crime-fighting units in the name of fighting terrorism.

"The administration is starving the criminal program," the former official said.

`Fairly awful situation'

Margarita MacDonald, a 75-year-old widow who has Parkinson's disease, may never get back more than \$1 million from a man who helped her with household tasks and then allegedly betrayed her trust.

She was nearly deaf, all alone and living in Canada when he befriended her. He began helping her with chores and errands in exchange for room and board. He won her trust and persuaded her to move to Issaquah with him.

The man told her that he had her best interests at heart, but he began manipulating her, persuading her to sign documents and threatening that he wouldn't bring her food or medicine if she didn't do what he wanted, MacDonald stated in court documents.

He gradually stole about \$1 million from her, buying furniture, electronics, jewelry - even vacations to Banff, Alberta, and Hawaii, she wrote.

Larry Gold, a lawyer in Vancouver, B.C., who represented her, called the Seattle office of the FBI in January 2005. The duty officer seemed interested and told him to put the information in writing, he said.

Gold did. In several carefully detailed pages, he explained that the man stole most of MacDonald's savings and even got his hands on \$400,000 worth of gold she kept in a safe deposit box in Canada. He said the FBI never responded.

"It was a fairly awful situation, and I thought they might be interested in it," Gold said. "What can I say? They weren't."

Frustrated, Gold sought help from Issaquah police, but Lynnwood attorney John Tollefsen took over the case and made getting MacDonald's money back, not prosecution, his main priority. He is still fighting to help MacDonald get back her savings.

A judge ordered the man to pay MacDonald more than \$1.4 million last year. The man filed for bankruptcy. He hasn't been charged with a crime.

`Dead on arrival'

Tensions were growing inside Robert Mueller's inner circle. In the months after 9/11, when the first waves of agents were funneled into counterterrorism, the FBI director was made aware of the consequences to come.

Without a major influx of new agents, there was no way to maintain the bureau's grip on a long list of traditional crimes, particularly time-consuming fraud investigations.

Mueller asked for help from two attorneys general - John Ashcroft and his successor, Alberto Gonzales - only to be rebuffed each time.

"We were told to do more with less," said David Szady, a former FBI assistant director who stepped down last year as head of counterintelligence.

"There was always discussion on backfilling," Szady said. "Always the push that we need to ask for more bodies."

Dale Watson, who left in 2002 as the FBI's executive assistant director over counterterrorism programs, also blames the White House Office of Management and Budget and the Justice Department for failing to heed the warnings.

"The budget should be backfilled with additional agents," Watson said. "We've got to do this. But you could request 2,000 agents for white collar, and it would never see the light of day at OMB."

By the time the bureau started putting together its fiscal 2007 budget in mid-2005, "we realized we were going to have to pull out of some areas - bank fraud, investment fraud, ID theft - cases that protect the financial infrastructure of the country," the retired top FBI official said.

Also in 2005, the FBI sent a five-year, strategic plan to the Justice Department that Szady called "the director's attempt to get this agency where it needed to be, including a robust criminal footprint. I know for a fact that the Justice Department beat that down. It was dead on arrival."

A report in September 2005 by the department's inspector general asserted that in addition to the 1,143 agents transferred away from traditional crime programs, the FBI used 1,279 agents on counterterrorism work, even though they were on the books as criminal-program agents. The inspector general concluded that the FBI "reduced its investigative efforts related to traditional crimes by more than 2,400 agents."

More recently, scaled-back staffing requests weren't granted. In fiscal 2006, the bureau sought 250 to 350 new agents. It was given money for fewer than 75, a former official said. Over the past eight years, the ranks of FBI agents have increased, from about 11,000 to 12,575, and virtually all have been assigned to anti-terrorism duties, records show.

Officially, the Justice Department and the Office of Management and Budget assert that traditional criminal enforcement by the FBI hasn't suffered in the wake of 9/11. They say federal law enforcement agencies are working more efficiently to compensate for the continuing emphasis on homeland security.

"The administration strongly disagrees that the FBI has been anything less than effective in the years since 9/11 in combating domestic crime issues," said OMB spokesman Sean Kevelighan. "We have worked to achieve a balance between the FBI's homeland security and criminal investigative missions."

"We'll just abide by what the president's budget is," said FBI Assistant Director Chip Burrus. "We work a lot smarter than we have in the past."

Mueller, Gonzales and Ashcroft declined to be interviewed for this story.

Burrus acknowledges that the bureau has reduced its efforts to fight fraud. He likened the FBI's current fraud-enforcement policies - in which losses below \$150,000 have little chance of being addressed - to "triage." Even cases with losses approaching \$500,000 are much less likely to be accepted for investigation than before 9/11, he said.

There is "no question" that America's financial losses from frauds below \$150,000 amount to billions a year, Burrus said. The top security official for a major American bank agreed, saying unprosecuted fraud losses easily total "multibillions."

Citing the new policy, an informed source said the Seattle FBI office would have rejected the MacDonald case, despite the million-dollar loss, because she was the only victim.

Experts say American consumers are paying for banks' and businesses' fraud losses; they are passed on through higher interest rates, bank fees and retail prices.

Enforcing civil rights laws has been a core FBI mission since the Johnson presidency, but after 9/11 those efforts declined substantially. The number of cases brought by the FBI to federal prosecutors for any reason - from getting subpoenas to seeking charges - fell 65 percent between 2000 and 2005, the P-I found.

While the FBI disputes the degree of the decline, the bureau's own figures show drops in cases investigated, indictments and convictions - particularly hate crimes. Civil rights cases against local police - including allegations of brutality and misuse of power - also dropped following 9/11, but FBI data show a rebound in indictments and convictions since 2005.

There were 24 percent fewer agents working on civil rights cases in 2004 than in 2000, according to the 2005 inspector general's report.

Sarah Dunne, legal director of the American Civil Liberties Union of Washington, said the decline in civil rights investigations means "people's rights are not protected."

"It's been sort of sad to see," said Dunne, a former trial attorney in the Justice Department's Civil Rights Division. "What type of message is the Bush administration sending if they say this is not a significant concern?"

Increasing counterterrorism and security efforts may actually lead to more situations in which police are violating people's civil rights, said James Bible, president of the Seattle-King County branch of the National Association for the Advancement of Colored People.

"We're essentially put in a place that we're sacrificing civil rights in the name of security," Bible said. "It would seem that, as we build one, we necessarily have to build the other."

John McKay, the former U.S. attorney for Western Washington, said he is surprised that the FBI's post-9/11 trade-offs weren't addressed years ago.

"I can't figure out for the life of me why, with the war on terror, asking for more FBI agents isn't a priority," said McKay, who was one of eight U.S. attorneys fired last year by the Bush administration. "If the president of the United States, a law-enforcement Republican, is not going to propose an increase in FBI agents - what Democrat will? There's plenty of blame to go around."

One leading Democrat, Sen. Joe Biden of Delaware, introduced legislation in February that aims to address the problem. The bill calls for hiring 1,000 agents at a cost of \$160 million a year.

"There's no doubt that fighting terrorism should be a top priority for the FBI, but we can't forget about the risk to our neighborhoods from everyday crime," Biden told the P-I.

"To add insult to injury, President Bush hasn't replaced the FBI agents who transitioned over from working criminal cases to counterterrorism," he said. "The FBI is at a breaking point. They're overworked and overburdened and, frankly, they need some relief."

'Risk-free crime'

Eric Drew was near death when someone stole his identity. Weak and in intense pain from leukemia and chemotherapy, he was about to have a bone-marrow transplant at a Seattle hospital in 2003 when collectors began calling, demanding payments on credit-card accounts he'd never opened.

He got little response from Seattle police and called the FBI. There, he said, a duty officer told him the FBI was focused on national security and didn't deal with fraud anymore.

"Basically, I was in the hospital dying, and nobody would lift a finger or even take a statement from me," he said.

Drew was furious. After his transplant, though sick and weak, he tracked down the culprit himself. He got the Seattle addresses where some of the fraudulently purchased merchandise had been shipped, and he found surveillance footage from a hardware store where some had been bought.

A local TV station picked up on his cause and aired footage of the thief using a credit card opened in Drew's name. Tips flooded in to Seattle police, and the guy turned himself in, Drew said.

The culprit was Richard Gibson, a hospital worker at Seattle Cancer Care Alliance who had had regular contact with Drew during his hospital stay.

Drew, 39, said the FBI finally took the case - but only after it became a public spectacle that a dying man couldn't get law enforcement to help him. Once the FBI took over, Gibson was swiftly prosecuted.

Drew, who is now cancer-free after a 2004 stem-cell transplant, believes that the FBI is the best agency to handle most identity-theft cases because they often cross state lines.

But for now, he said, the message from the FBI and other law-enforcement agencies is unsettling: "It's a risk-free crime. Go out and steal identities. No one will come after you."

Crime squads tapped

In the late 1990s, the FBI in Seattle had at least 16 agents working on two white-collar crime squads.

"It was like one-stop shopping," said Jason Moulton, a former FBI official who ran one of those squads. "SPD was there, the IGs were there, the Department of Financial Institutions was there. IRS was there. They all had desks in the space. We were running (wiretaps), doing complex cases."

All of the agents "were extremely busy," and there were still plenty of cases they couldn't get to, Moulton recalled.

By last summer, the effect of shifting agents to anti-terrorism squads was clear: The FBI's white-collar effort had been whittled down to four agents statewide. Hard-pressed agents are now routinely urging banks or lawyers representing victims to do most of the investigating themselves. Even then, the FBI won't necessarily pursue criminal charges.

A few years ago, a Shoreline couple with a home-repair business allegedly used phony financial information to get Columbia Bank to loan them more than \$2 million and then stopped paying it back.

The bank sued, and a King County Superior Court judge ordered the couple to pay more than \$1.6 million. The couple moved to Colorado and declared bankruptcy. There, a judge found that the man - and to a lesser extent, the woman - purposely deceived the bank.

A dogged Columbia Bank investigator put the case together in a nice package to hand off to the FBI for possible criminal charges, according to an FBI agent. The bureau, however, declined to take the case.

The FBI also declines to investigate most cases of an increasingly common financial crime that can leave victims financially and emotionally drained: identity theft.

"When cases come in that you have to decline, you are supposed to find a home for them," an FBI agent in Seattle said. "But you've got a lot of balls in the air. You have so much you are trying to do with so little resources."

Seattle police say they have been investigating more white-collar crime cases in recent years - partly because the FBI is handling fewer, and partly owing to an explosion in identity theft and Internet-related crimes.

"We're now really having to make hard decisions about which cases will get worked, and when," said Lt. Mike Edwards, who supervises the Fraud, Forgery and Financial Exploitation Unit.

King County sheriff's detectives have also struggled to investigate an increasing number of fraud cases without FBI help, Sgt. John Urquhart said.

There are many reasons why federal agents are better suited than the locals to conduct complex fraud investigations. The FBI has agents around the nation and the world to run down leads. Even if a local detective could get her chief to approve an investigative trip across country, she has no jurisdiction in another state.

If agents need to subpoena business records, they simply call a federal prosecutor, who can get an order easily. That's not true in many state jurisdictions, including Washington, where it can take a couple of days for the prosecutor to prepare documentation and present it to a judge for a subpoena. Federal agents can obtain warrants for wiretaps; local officers in Washington cannot, except in rare circumstances. Locals need a court order for a body wire; federal agents don't. FBI agents can record telephone calls if one party consents without going to a judge; locals can't.

And federal sentences for white-collar crimes are generally tougher than those meted out in state courts. In Washington, for example, the average federal money-launderer was sentenced to 35 months in prison in 2006, while the average state court sentence was probation.

The difference in penalties means that not only are fewer people getting prosecuted for white-collar crimes, they are also serving less time behind bars. And just when coordination among state, local and federal law enforcement in Washington and other states needed to be at its best, there were signs of major breakdowns.

In 2001, the FBI office in Seattle launched the King County Fraud Investigation Team, which included investigators from the Seattle and Bellevue police departments, the King County Sheriff's Office and the Secret Service. Less than two years later, the bureau dissolved it, according to a Seattle-area fraud investigator.

About the same time, FBI supervisors in Seattle also stopped attending monthly meetings where they talked about fighting fraud with executives from major retailers, such as Nordstrom and Costco.

Said one agent: "What did we bring to the table? We got out of that game. Why go and give them a no?"

But the bureau's new mantra of doing more with less seems to be paying off in the handling of bank robberies. The five FBI agents in Seattle that had been assigned to bank heists have been reduced to one, but there are no complaints of languishing cases. The conviction rate last year was a lofty 85 percent.

Special Agent Larry Carr now works with local detectives to coordinate the investigations and determine whether defendants will be prosecuted in state or federal court. Increasingly, the cases are going to King County Superior Court.

"It is a testament to doing a lot more with a lot less," Carr said.

Scam artists unpunished?

A few years ago, more than 1,000 people across the country invested roughly \$70 million in a scam known as Resource Development International, led by two men who set up headquarters in Tacoma.

Though victims in Washington urged the FBI to investigate, the two men didn't face federal charges - or even a criminal case here in

Washington, where they ran the scam.

The district attorney's office in Santa Clara County, Calif., ended up taking on the case after an elderly victim in the San Jose area came forward. Deputy District Attorney Paul Colin prosecuted the kingpins, John and David Edwards, a father-and-son team who are now serving 27-year sentences in state prison, and two other men who had sold the investments to people in California.

But dozens of others were involved in the scam - six to eight people who worked in the Edwardses' office, and 50 to 100 people who sold the phony investments across the country, Colin said. Most haven't faced charges. That includes nine Washington men who, according to the state Department of Financial Institutions, sold more than \$6.6 million worth of the sham investments to 53 people in Washington.

"If the feds had taken this on, it might have been caught sooner, and more of the people who assisted the Edwardses might have been brought to justice," Colin said. "These scams happen every day to the rich and the poor, and they should be a priority of law enforcement - particularly at the federal level."

After trying several times, Lloyd Martindale Jr., one of the Washington victims, finally got an FBI agent to meet with him in August 2002. The agent showed up late, explaining that he'd been out late dealing with terrorist activities and border issues, he said.

"He wanted my evidence and a description of my role," he said. "It sounded like the FBI was going to take this thing."

Retired Tacoma schoolteacher Dick Mansfield, who said he was persuaded by one of the scam's "slick operators" to invest \$175,000 from his state pension, also finally got a special agent at the FBI's Tacoma office to hear his story.

"She did listen to me," he said, "but nothing ever came of it."

Gina Davis, supervisory special agent of the Tacoma office, said they didn't act because an FBI office in California was already investigating the investment scam. But John Gliatta, supervisory special agent in Fresno, Calif., said their investigation was limited to two men in the Fresno area. One was charged with perjury and sentenced to probation.

Mansfield and Martindale believe that many more people should have been prosecuted, and Mansfield still struggles to explain how devastating it is "to have your future ripped off."

"I feel angry that we don't have a culture that sees the horror of financial theft," he said. "It is horrendous. It is not taken seriously." Thousands of white-collar criminals across the country are no longer being prosecuted in federal court - and, in many cases, not at all - leaving a trail of frustrated victims and potentially billions of dollars in fraud and theft losses.

It is the untold story of the Bush administration's massive restructuring of the FBI after the terrorism attacks of 9/11.

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## WEB LINKS

To learn more about the effects of FBI's post-9/11 reorganization:

The inspector general's report on "The External Effects of the Federal Bureau of Investigation's Reprioritization Efforts": [usdoj.gov/oig/reports/FBI/a0537/index.htm](http://usdoj.gov/oig/reports/FBI/a0537/index.htm)

The IG's report on "Internal Effects of the Federal Bureau of Investigation's Reprioritization": [usdoj.gov/oig/reports/FBI/a0439/index.htm](http://usdoj.gov/oig/reports/FBI/a0439/index.htm)

General Accounting Office reports on the "FBI Transformation": [gao.gov/new.items/d041036.pdf](http://gao.gov/new.items/d041036.pdf)

- Caption: Photos & Chart(1) GILBERT W. ARIAS/P-I: FBI Special Agent Larry Carr collects evidence last month after a bank robbery in Ballard. Four other agents were reassigned after 9/11, but Carr and local detectives won convictions in 85 percent of cases last year.+ (2) MIKE URBAN/P-I: Tacoma retiree Dick Mansfield put money into an investment that promised 4 percent interest each month and that turned out to be a sham. He told a special agent in the FBI's Tacoma office of investing \$175,000 from his state pension. "She did listen to me," he said, "but nothing ever came of it." (3) SHIFTING FOCUS, STRETCHED RESOURCES

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