United States General Accounting Office

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Report to the Chairman, Subcommittee on Civil and Constitutional Rights, Committee on the Judiciary, House of Representatives

September 1990

INTERNATIONAL TERRORISM

FBI Investigates Domestic Activities to Identify Terrorists

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September 7, 1990

The Honorable Don Edwards
Chairman, Subcommittee on Civil
and Constitutional Rights
Committee on the Judiciary
House of Representatives

Dear Mr. Chairman:

This report responds to your February 1, 1988, request that we review the Federal Bureau of Investigation (FBI) international terrorism program. We also address specific questions in your July 27, 1989, letter about our detailed file review. Unfortunately, data access issues both impeded our progress and limited our ability to draw conclusions.

As you know, the FBI removed ("redacted") information it considered sensitive from the files before we were granted access to them. The redaction procedures were time consuming and delayed issuance of this report. Given that the FBI redacted the closed files before we reviewed them, we were limited in our ability to develop overall conclusions regarding the FBI's international terrorism program. The questionnaire and case file data clearly demonstrated that the FBI did engage in monitoring of First Amendment-type activities during its international terrorism investigations. However, we are not able to determine if the FBI infringed First Amendment rights when monitoring these activities or if the FBI had a reasonable basis to monitor such activities.

Unless you publicly announce the contents earlier, we plan no further distribution of this report until 30 days from the date of issuance. At that time, we will send copies of the report to the Attorney General and the FBI Director. Upon request, we will send copies to other interested parties.

Major contributors to this report are listed in appendix IV. Please contact me at 275-8389 if you have any questions concerning the report.

Sincerely yours,

Lowell Dodge

Lowell Dodge
Director, Administration
of Justice Issues

Executive Summary

Purpose

In carrying out its responsibilities for investigating possible terrorist activities, the Federal Bureau of Investigation (FBI) must balance its investigative needs against the need to respect individuals' First Amendment rights, such as the freedom of speech and the right to peaceably assemble. The difficulties in trying to balance between the two was exemplified in an investigation of the Committee in Solidarity with the People of El Salvador (CISPES). According to the FBI, it opened an investigation on the basis of an informant's information that CISPES was involved in terrorist activities. CISPES alleged that the FBI investigated it because it opposed the Reagan administration's Central American policies. The release of documents obtained under the Freedom of Information Act raised questions about the FBI monitoring of American citizens exercising their First Amendment rights.

Because of the issues raised about the FBI's investigation of CISPES, the Chairman, Subcommittee on Civil and Constitutional Rights, House Judiciary Committee, asked GAO to review the FBI's investigation of possible international terrorism activities to determine

- the basis on which the FBI was opening investigations,
- the scope and results of the investigations,
- whether the FBI had monitored First Amendment activities during the investigations, and
- the reasons the investigations were closed.

Background

The FBI is responsible for detecting, preventing, and reacting to international terrorism activities that involve the unlawful use of force or violence to try to intimidate a government or its civilian population for political or social objectives. The FBI maintains a general index system in support of its investigative matters. The FBI identifies various information it obtains during its investigations and enters it into the system for future retrieval. This process, known as indexing, records such information as individuals' and organizations' names, addresses, telephone numbers, and automobile license plate numbers. The FBI has policies governing indexing and the period of time indexed information is retained.

The allegations raised about the FBI's CISPES investigation prompted an internal FBI inquiry of that investigation. The internal study found that the FBI had properly opened the investigation, but the study also found that the FBI had substantially and unnecessarily broadened the scope of the investigation and had mismanaged the investigation. In response to

the study's finding, the FBI Director implemented a number of policy and procedure changes regarding international terrorism investigations.

Between January 1982 and June 1988, the FBI closed about 19,500 international terrorism investigations. The FBI completed GAO questionnaires about various aspects of 1,003 cases randomly selected by GAO (e.g., the reasons cases were opened and closed, the subjects of investigations, the monitoring of First Amendment activities, and the use of indexing). GAO is generalizing the results of its questionnaire analyses to an adjusted universe of 18,144 closed international terrorism cases.

On the basis of the questionnaire responses, GAO randomly selected 150 cases for review. Eight more cases were added at the request of the Subcommittee. (See p. 35.) However, the FBI limited GAO's access to data by removing from the case files information it believed could potentially identify informants, ongoing investigations, and sensitive investigative techniques. The FBI also removed information it received from other agencies.

Results in Brief

GAO estimates that about half of the 18,144 cases were opened because the FBI suspected that individuals or groups were involved in terrorist activities. U.S. citizens and permanent resident aliens were the subjects in 38.0 percent of the 18,144 cases. The FBI monitored First Amendment-type activities in about 11.5 percent of these 18,144 cases. The FBI indexed information about (1) individuals who were not the subjects of the investigations in about 47.8 percent of the cases and (2) groups not the subjects of the investigations in about 11.6 percent of the cases. The FBI closed about 67.5 percent of the cases because it did not develop evidence to indicate that the subjects were engaging in international terrorist activities.

The questionnaire and case file data show that the FBI did monitor First Amendment-type activities during some of its international terrorism investigations. Because of the limitations placed on its access to files, however, GAO cannot determine if the FBI abused individuals' First Amendment rights when it monitored these activities or if the FBI had a reasonable basis to monitor such activities.

GAO's Analysis

Reasons Cases Were Opened

From an adjusted universe of 18,144 closed international terrorism investigations from January 1982 to June 1988, GAO estimates that the FBI opened 9,507 cases (52.4 percent) because it had obtained information indicating that someone was engaged in or planning international terrorist activities. (See p. 17.)

The reasons cases were opened were essentially those stated in broad categories listed on GAO's questionnaires, which were completed by FBI personnel. To develop more detailed descriptions of the reasons cases were opened, GAO reviewed 158 cases and identified whether the information in the files indicated that the subject was or may have been (1) involved in or planned a terrorist act, (2) a leader or member of a terrorist group, or (3) associated with or linked to a terrorist group. The results of GAO's review showed that the FBI opened 70 of the 158 cases because of information indicating the subjects were associated with or linked to a terrorist group. For example, the information obtained may have indicated that the individual's phone number had been called by another person under investigation. Of these 70 cases, U.S. citizens and permanent resident aliens were the subjects in 37 cases. (See pp. 18 and 19.)

Monitoring of First Amendment Activities

The FBI observed First Amendment-type activities to obtain information about the subjects of investigations. Information on such activities was also obtained through informants or from other law enforcement agencies.

On the basis of its questionnaire results, GAO estimates that the FBI monitored or observed First Amendment activities in 2,080 (11.5 percent) of its international terrorism cases. Of these 2,080 cases, 951 were investigations of U.S. citizens or permanent resident aliens. (See pp. 20 and 21.)

Indexing of Names in Terrorism Investigations

On the basis of its questionnaire results, GAO estimates that the FBI indexed information about individuals, other than the subjects of investigations, in 8,671 (47.8 percent) of its international terrorism cases. Of these 8,671 cases, 3,354 were cases involving indexing of U.S. citizens or permanent resident aliens. Similarly, GAO estimates that 2,105 cases involved indexing of groups during the investigations. Of these 2,105

cases, 913 were cases involving indexing of groups with U.S. citizens or permanent resident aliens. (See pp. 23 and 24.)

Reasons Cases Were Closed

GAO estimates that the FBI closed 12,240 cases (67.5 percent) because it found no evidence linking the subject to international terrorist activities. Of the investigations, another 4,015 cases (22.1 percent) were closed because the subject moved or could not be located. The remaining 1,889 cases (10.4 percent) were closed for other reasons, such as the subject was arrested or the case was transferred to another FBI field office. (See pp. 25 and 26.)

Recommendations

The FBI removed information it considered sensitive from the closed case files before giving the files to GAO to review. Further, the FBI denied GAO access to open cases. Because of these limitations —information being removed from the files and no access to open cases— GAO is not making any recommendations. Also, GAO could not evaluate changes the FBI had made to its international terrorism program because of the lack of access to open cases.

Agency Comments

GAO requested, but did not receive, written FBI comments on the report. However, GAO discussed the report with FBI officials who generally agreed with the facts. GAO incorporated other views of the officials where appropriate.

Contents

Abbreviations

ARMS	Automated Records Management System
CISPES	Committee in Solidarity with the People of El Salvador
FBI	Federal Bureau of Investigation
FOIMS	Field Office Information Management System
OIPR	Office of Intelligence Policy and Review
OPEA	Office of Program Evaluations and Audits
TIS	Terrorism Information System
TRAC	Terrorist Research and Analytical Center

Introduction

The First Amendment of the Constitution of the United States guarantees certain rights, among which are the freedom of speech and the right to peaceably assemble. In exercising these rights, individuals are allowed to voice their disagreement with the policies and practices of the government. Their disagreement can take the form of a demonstration or march to show support for their cause without fear of reprisal or interference from anyone when exercising these rights.

The Federal Bureau of Investigation (FBI) is responsible for, among other matters, conducting investigations of people suspected of engaging in international terrorist activities, which is the unlawful use of force or violence to intimidate a government or its population for political or social objectives. However, national security concerns have to be carried out in such a way that individuals' First Amendment rights are not violated. The difficulty the FBI faces in trying to balance its responsibilities without violating individuals' personal liberties was exemplified in a case involving the Committee in Solidarity with the People of El Salvador (CISPES).

CISPES alleges that the FBI investigated it, its members, and groups that were associated with it solely for the political reason that they were opposed to President Reagan's Central American policies. According to the FBI, at the request of the Department of Justice, it opened a criminal investigation of CISPES in September 1981 to determine if CISPES was required to register under the Foreign Agents Registration Act. The investigation did not find a violation of the act but indicated that CISPES verbally supported the opposition movement. The FBI subsequently closed the investigation in February 1982. However, the FBI continued to collect information about CISPES from an informant. The informant said that CISPES was involved in international terrorism or acts in support of or preparation for international terrorism. Consequently, the FBI opened an international terrorism investigation on CISPES in March 1983. During the investigation, the FBI conducted surveillance of CISPES and other groups associated with it. The FBI closed the international terrorism investigation in June 1985 because it found no evidence of CISPES involvement in international terrorist activities.

The Center for Constitutional Rights, a New York-based lawyers group representing CISPES, released information it had obtained from its Freedom of Information Act request regarding the FBI's CISPES investigation. The release of these documents prompted allegations by the Center that the FBI had conducted extensive surveillance of American citizens opposed to the Reagan administration's policies in Central America.

These allegations resulted in an internal FBI inquiry of its CISPES investigation. The inquiry found that the FBI was justified in opening its CISPES investigation but that it mismanaged the investigation. For example, a background check on the informant was not done in accordance with normal procedures. In response to the findings reflected in the CISPES report, the FBI Director implemented 33 policy and procedure changes regarding international terrorism, according to the Assistant Director, Inspection Division. These changes included (1) changing the system for handling and managing informants; (2) modifying the Attorney General's Foreign Counterintelligence Guidelines; (3) rectifying the shortcomings in the FBI's decision-making review and approval processes; (4) developing written guidance concerning activities protected by the First Amendment and the collection and preservation of printed public source materials; (5) establishing a system to ensure that all field office requests about guidance, particularly those about justification, focus, and use of sensitive techniques, be brought to the attention of higher level Bureau officials; and (6) changing other day-to-day operations about general FBI policies, training, and internal inspection programs.

Because of the allegations about the FBI's investigation of CISPES, the Chairman, Subcommittee on Civil and Constitutional Rights, House Judiciary Committee, asked us to review the FBI's investigations of individuals and monitoring of First Amendment activities with respect to the FBI's international terrorism program.

The FBI's International Terrorism Program

The FBI, under the direction of the Attorney General, is the lead federal agency responsible for preventing, interdicting, and investigating domestic and international terrorist activities. The focus of international terrorism investigations is to be on the unlawful activity of an individual or a group, not the ideological motivations of the individual or group members. The FBI collects information about individuals, group memberships, associations, movements, etc., that serves as a basis for prosecution and builds an intelligence database for future prevention of terrorist acts. According to its records, the FBI closed about 19,500 international terrorism cases between January 1, 1982, and June 30, 1988.

The FBI's international terrorism program is carried out under the auspices of the Counterterrorism Program.[1] The mission of the program is

[1]Executive Order 12333, dated December 1, 1981, and related statutes provide the authority for the FBI, pursuant to regulations established by the Attorney General, to conduct counterintelligence activities both within and outside the United States.

to detect, prevent, and react to unlawful violent activities of individuals or groups whose intent is to (1) overthrow the government; (2) interfere with the activities of a foreign government in the United States; (3) impair the functioning of the federal government, a state government, or interstate commerce; or (4) deprive Americans of their civil rights.

The FBI uses the statutory definition of international terrorism, which is an unlawful use of force or violence against persons or property to intimidate or coerce a government, or the civilian population, for political or social objectives. International terrorism involves acts committed by groups or individuals who are foreign-based and/or directed by countries or groups outside the United States or whose activities transcend national boundaries.

Guidelines for Conducting International Terrorism Investigations

The Attorney General's Guidelines for Foreign Intelligence Collection and Foreign Counterintelligence Investigations establishes the principal investigative policies and criteria for conducting international terrorism investigations. The guidelines govern the type of investigation, basis for initiating the investigation, and the investigative techniques that can be used during the investigation. According to the guidelines, subjects of international terrorism investigations may be categorized as a foreign power, foreign officials, foreign visitor, or U.S. person. A U.S. person is defined as a U.S. citizen, a permanent resident alien, or an organization.[2] Additionally, the guidelines provide that U.S. citizens' rights are to be protected during the FBI's investigations.

International terrorism investigations are conducted at varying levels of investigative intensity. FBI policy requires that a basis of specific facts be established before it undertakes a complete, detailed investigation of individuals or groups. Upon initial receipt of an allegation, a review may be instituted to determine if a factual basis for the allegation exists. The FBI stated that specific restrictions are applied regarding the scope and investigative techniques that may be used. Of the approximately 19,500 closed international terrorism cases, about 18,200 were conducted to determine if further inquiry was warranted. The remaining 1,300 investigations were of a more detailed nature. Investigations may be initiated

[2]The Attorney General's Guidelines define U.S. person as a United States citizen; a permanent resident alien; an unincorporated association substantially composed of U.S. citizens or permanent resident aliens; or a corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government or governments.

on individuals or groups that may be engaged in espionage, foreign intelligence gathering, or international terrorism; individuals who may be a target of a spy or an international terrorist; or on individuals to determine their suitability or credibility to assist the FBI in a particular activity or investigation.

Generally, investigations are initiated in field offices upon authorization by the Special Agent in Charge. However, according to FBI policy, field offices must obtain FBI headquarters approval before initiating investigations that can be characterized as: (1) investigations that could be harmful to U.S. foreign relations; (2) investigations that, if not monitored and reviewed at the headquarters level, could potentially have a chilling effect on the exercise of protected rights; and (3) investigations that circumstances indicate could compromise sensitive operations or raise questions of legality or propriety that should be addressed at FBI headquarters level.

FBI policy limits the investigative techniques that can be used to determine if a factual basis exists for a more detailed and complete investigation. FBI guidelines set forth specific techniques that may be used and limit the extent to which they may be employed. Additionally, other investigative techniques, which otherwise could be lawfully employed, are prohibited by policy during this stage of the investigation. FBI guidelines set forth field office reporting requirements based on the duration of the investigation. All international terrorism investigations, regardless of the level of investigative intensity, are to be terminated upon determination that the reason for which they were initiated no longer exists, has been resolved, or because further efforts would not reasonably resolve the allegation or predication.

OIPR's Review of Investigations on U.S. Persons

When the subject of the investigation is a U.S. person, copies of summary memoranda are to be sent to the Department of Justice's Office of Intelligence Policy and Review (OIPR) for review. OIPR, operating with a staff of 11, has oversight responsibility for ensuring that all investigations of U.S. persons are in compliance with the Attorney General's guidelines. The memoranda are reviewed by OIPR to determine whether the facts, as reported in the memorandum, satisfy the requirements of the Attorney General's guidelines. If, in OIPR's opinion, the information does not appear to meet the standards of the guidelines, it would explain to the FBI what information is lacking and might suggest the additional information or clarification that is needed.

According to the Counsel for Intelligence Policy, OIPR, it does not tell the FBI what cases should or should not be investigated. OIPR advises the FBI on whether the information presented in the summaries is sufficient to meet the Attorney General's guidelines. If the FBI continued an investigation that OIPR believed was not warranted, OIPR could make a recommendation to the Attorney General that he direct the FBI to stop the investigation. According to the Counsel, OIPR has never made such a recommendation.

Investigative Files

Information gathered during an international terrorism investigation is to be catalogued in investigative files. The files are to contain all material, evidence, or documents collected during the investigation. Each piece of correspondence, report, or other document that is placed in the case files is to be sequentially numbered, which the FBI refers to as serials. An international terrorism case may contain any number of files[3] of information collected during the investigation. The size of each file may vary from case to case or even within the same case. According to FBI officials, the size of a file is not determined by any set criteria or guidelines. Therefore, the staff preparing the files determines when to start another.

The FBI's "Records Retention Plan and Disposition Schedule" contains the policy for the destruction of investigative files. The retention guidelines require that FBI headquarters files and records for criminal-related investigations, such as international terrorism cases, are to be destroyed after having been closed for 20 years and that field offices should destroy criminal-related files after 10 years.

Indexing Guidelines

The guidelines governing the administrative handling of investigations require that the FBI case agent identify certain information and evidence collected during the investigation and enter it into an information system so that it can be retrieved for future reference. This process is known as indexing. The purpose of indexing is to record information relevant and necessary to carry out the purpose of the investigation, such as individual names, organizational names, telephone numbers, addresses, and automobile license plate numbers.

Two types of information may be indexed—subject and reference data. Subject data includes all relevant information about the subject, such as

[3]The FBI refers to files as volumes.

aliases, date of birth, and property (e.g., automobiles and real estate). Reference data includes information that is similar to subject data but is information about individuals or organizations who were not the subject of the investigation.

For both subject and reference data, two types of indexing criteria—mandatory and discretionary—are used. For example, the mandatory indexing criteria require that case title information (e.g., individual names and aliases or organizational names) be indexed as well as the names of persons who have been subpoenaed in an FBI investigation or persons who are targets of electronic surveillance. Discretionary indexing may include (1) individuals suspected of committing crimes, (2) the subject's close relatives and associates, (3) witnesses or other individuals contacted by the FBI, or (4) property. The indexing guidelines emphasize that discretionary indexing is a very subjective decision-making process.

According to the indexing guidelines, not all witnesses or persons interviewed or contacted by the FBI are to be routinely indexed. The information should contain as much related identifying or descriptive data as possible. Identifying data includes such items as birth date, sex, race, or Social Security number. Descriptive data includes such things as height, weight, scars and marks, color of eyes, color of hair, and address.

FBI field agents or headquarters personnel mark the documents to indicate what information is to be indexed. The agent is responsible for circling or underlining, or instructing clerical staff to circle or underline, any information that is covered by the mandatory indexing criteria. The agent is also responsible for underlining those names or other items appearing in the body of a document that are discretionary but that the agent deemed necessary for future retrieval. FBI headquarters personnel also are responsible for circling or underlining information for indexing on incoming documents that the field office staff have not already identified for indexing. The indexed information is to be retained as long as the investigative file is retained and is to be destroyed when the investigative files are destroyed.

Objectives, Scope, and Methodology

On February 1, 1988, the Chairman, Subcommittee on Civil and Constitutional Rights, House Judiciary Committee, asked us to review the FBI's international terrorism program. The Chairman was concerned that the FBI's investigation of CISPES was overly broad and not properly focused. Accordingly, he wanted us to determine if the FBI collected and reported

information on First Amendment-type activities, as in the CISPES investigation. To address the Chairman's concern, we agreed to determine

- the basis on which the FBI was initiating international terrorism investigations;
- the scope and results of the investigations;
- whether the FBI had been monitoring First Amendment activities (such as demonstrations, meetings, speeches) during the investigations; and
- the reasons investigations were closed.

After our June 22, 1989, testimony[4] about the progress and preliminary results of our review, in a July 27, 1989, letter, the Chairman requested that we address some additional specific questions during our analyses. The Chairman's primary concern in his July 1989 letter was that the FBI opened cases on the basis of information that indicated that the subjects of the investigations had only been associated with or linked to a terrorist group. His questions generally asked for additional information about cases of this type that we had reviewed; for example, how many involved monitoring of First Amendment activities, and how many were on U.S. persons. Responses to the Chairman's specific questions, which are not part of the information detailed in chapter 2 of this report, are in appendix IV.

We did our work at the FBI's headquarters office in Washington, D.C. We interviewed agency officials about the international terrorism program and reviewed policy documents related to this program. In addition, we reviewed a sample of closed international terrorism cases. The sampling process involved a questionnaire, which was completed by FBI personnel, to obtain profile information about all closed international terrorism cases. We sampled 1,100 randomly selected closed international terrorism cases from about 19,500 international terrorism investigations closed between January 1, 1982, and June 30, 1988.[5] We used the results from our questionnaire to identify and select 160 cases for a detailed case file review.[6]

[4]International Terrorism: Status of GAO's Review of the FBI's International Terrorism Program (GAO/T-GGD-89-31, June 22, 1989).

[5]Subsequent to our selecting a random sample, our review of the data provided by the FBI showed that some of the cases on the computer print-outs were closed after June 30, 1988. The number of these cases actually selected, however, was only 2.1 percent and we chose not to modify our estimates because the effect was not material.

[6]Because we were denied access to some cases, we reviewed edited files for only 158 cases. See appendix II for further explanation about this matter.

We used the questionnaire to obtain general profile data about international terrorism cases (such as type of case and subject, number of files, dates opened and closed, reasons opened and closed) and to identify cases that involved monitoring of First Amendment-type activities. Our questionnaire was designed to yield an expected sampling error of plus or minus 5 percent at a 95 percent confidence level for all closed investigations. The results are statistically generalizable to an adjusted universe of 18,144 closed international terrorism cases based on a response rate of 91 percent.

Our detailed review of the 158 cases sampled focused on (1) the reasons the cases were opened, (2) investigative techniques used during the investigation, (3) any First Amendment activities that were monitored by the FBI, and (4) the reasons the cases were closed. Before giving us a copy of the case files, however, the FBI redacted information (removed or blacked-out data) from the files. They redacted information that they believed would or could potentially identify informants, ongoing investigations, and sensitive investigative techniques. They also removed information they had received from other agencies. We did not try to evaluate the strength or validity of the information in the case files.

A detailed description of our objectives, scope, and methodology is contained in appendix II. We requested written FBI comments on the report, but it did not provide them. However, we discussed the report with FBI officials who generally agreed with the facts. We incorporated other views of the officials where appropriate. We did our work between March 1988 and February 1990. Except for the data access and verification limitations discussed above, our work was done in accordance with generally accepted government auditing standards. The report has been revised to eliminate material that the FBI identified as classified information.

Results of International Terrorism Investigations

Between January 1982 and June 1988, the FBI closed about 19,500 international terrorism investigations. Our questionnaire results are generalizable to an adjusted universe of 18,144 of these cases. Of these 18,144 cases, we estimate that

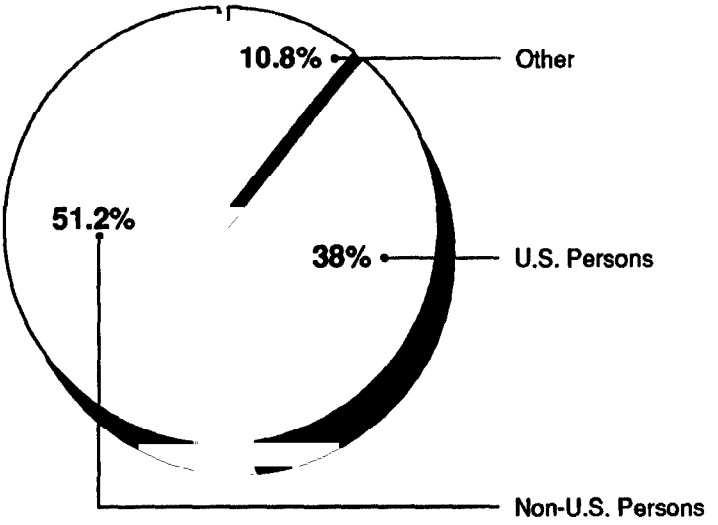
- 52.4 percent were opened on individuals and groups because the FBI had obtained information alleging that they were involved in international terrorism activities;
- 11.5 percent of the cases were opened because the individuals were affiliated with foreign countries that sponsored terrorism;
- 18.0 percent were opened for other reasons, such as an individual may have been engaged in espionage or may have had information about possible terrorist activities; and
- 18.1 percent were opened for a combination of these reasons.

Of the 18,144 cases, U.S. persons were the subjects in 38.0 percent of the investigations; non-U.S. persons were the subjects in 51.2 percent of the cases; and for the remaining 10.8 percent of the cases, the subjects were classified as other (e.g., groups, organizations, or unidentified). As part of the investigations, the FBI monitored First Amendment-type activities in 11.5 percent of the 18,144 cases. The FBI indexed individuals other than the subjects of the investigations in 47.8 percent of the 18,144 cases, and in about 38.7 percent of these cases the individual indexed was a U.S. person. The FBI closed 67.5 percent of its international terrorism investigations because no evidence indicating involvement in terrorist activities was found.

Subjects of International Terrorism Investigations

On the basis of our questionnaire, we estimate that U.S. persons (U.S. citizens or permanent resident aliens) were the subjects in about 38.0 percent of the FBI's terrorist investigations, and non-U.S. persons were the subjects in about 51.2 percent of the investigations (see fig. 2.1). Table 2.1 shows the type of subjects being investigated by case type, projected to an adjusted universe of 18,144 closed cases.

Figure 2.1: Subjects of FBI International Terrorism Investigations



N=18,144

Table 2.1: Estimated Number of Cases by Subjects

Subject type	Total	Percent
U.S. person	6,895	38.0
Non-U.S. person	9,297	51.2
Other[a]	1,952	10.8
Total	**18,144**	**100.0**

[a]Other includes those cases in which the subject of investigation was a group or organization, was unidentified, or in which the person filling out the questionnaire did not know the subject type.

Reasons Cases Were Opened

Table 2.2 shows the reasons cases were opened by subject type projected to the adjusted universe. The reasons for opening the cases were listed on our questionnaires, which were completed by FBI employees. In about 52.4 percent of the cases, the FBI investigated persons or groups it suspected of engaging in or planning international terrorism. In about 11.5 percent of the cases, the FBI investigated individuals who were bound by citizenship or loyalty to a foreign country that sponsored terrorism.

Table 2.2: Estimated Number of Cases by Reasons Cases Opened and Subject Type

	Subject type				
Reason for opening case	**U.S. person**	**Non-U.S. person**	**Other**	**Total**	**Percent**
Engaged in or planning international terrorist activities	4,458	3,774	1,275	9,507	52.4
Individual affiliated with countries that support terrorism	[a]	1,778	[a]	2,081	11.5
Engaged in espionage, sabotage, or intelligence gathering	571	667	[a]	1,271	7.0
Combinations[b]	904	2,028	[a]	3,283	18.1
Other reasons[c]	688	1,050	[a]	2,002	11.0
Total	**6,895**	**9,297**	**1,952**	**18,144**	**100.0**

[a]The sampling errors for these numbers were too large to make a meaningful estimate.

[b]Agents filling out the questionnaires indicated more than one reason for the cases being opened.

[c]Other reasons include such things as a subject has or may be about to furnish sensitive information to an unauthorized person, subject may have information about possible terrorist activities, and a criminal statute was violated.

Reasons for Opening the 158 Cases Reviewed

On the basis of our questionnaire, two categories—subjects were believed to be engaged in or planning international terrorism activities and subjects were individuals affiliated with foreign countries that sponsor terrorism—accounted for 63.9 percent of the cases being opened. To be more descriptive of the reasons cases were opened, we reviewed the 158 sampled cases. We developed the following categories:

(1) The information indicated that the subject (or group) committed, planned, or was otherwise involved in a terrorist act. Examples would include the subject (1) was involved in an assassination, a bombing, or an arson; or (2) provided materials and/or funding for such activities.

(2) The information indicated that the subject was a leader or member of a terrorist group. Examples would include (1) information from an informant that the subject "is a member or leader" or (2) the subject's name was listed on a group's official membership roster.

(3) The information indicated that the subject may be associated with or have some connection with a terrorist group but that the membership in or link to a terrorist group was less than definite. Examples would include information that the (1) subject attended one or more group meetings, (2) subject's name was included in the personal address book

of a group member, or (3) subject was in contact with a known terrorist group leader or member.

(4) No basis to judge. Examples would include (1) cases transferred to another office and the information on why a case was opened in the first FBI field office was not clear from the files of the second office or (2) the information was redacted by the FBI during its review process before the files were given to us.

Our analysis of the 158 cases shows that 46 percent involved U.S. persons. Forty-four percent of the cases were opened because it was alleged that the subject was associated with a terrorist group. Another 30 percent were opened because it was alleged that the person was a leader or member of a terrorist group. Table 2.3 shows the basis for opening the 158 cases we reviewed.

Table 2.3: Reasons for Opening the 158 Cases Reviewed

	Subject type				
Reason for opening case	**U.S. person**	**Non-U.S. person**	**Group or organ.**	**Other**	**Total (percent)[a]**
(1) Committed or planned terrorist-type activity	9	6	4	0	19
					(12)
(2) Leader or member member of a terrorist group	19	25	1	2	47
					(30)
(3) Associated with or linked to a terrorist group	37	26	3	4	70
					(44)
(4) No basis to judge judge reason for openning case	8	13	1	0	22
					(14)
Totals	**73**	**70**	**9**	**6**	**158**
(Percent)"	(46)	(44)	(6)	(4)	(100)

[a]These percents are only applicable to this sample of 158 cases and are not representative of what may have been found in the universe of all closed international terrorism cases. See appendix II for a discussion of how these cases were selected.

We did not try to evaluate the strength or validity of the information or allegation that served as the reasons for opening cases. Examples describing the reasons for opening cases, some of the activities occurring during the investigations, and the reasons for closing cases are shown in appendix III.

Monitoring of First Amendment Activities

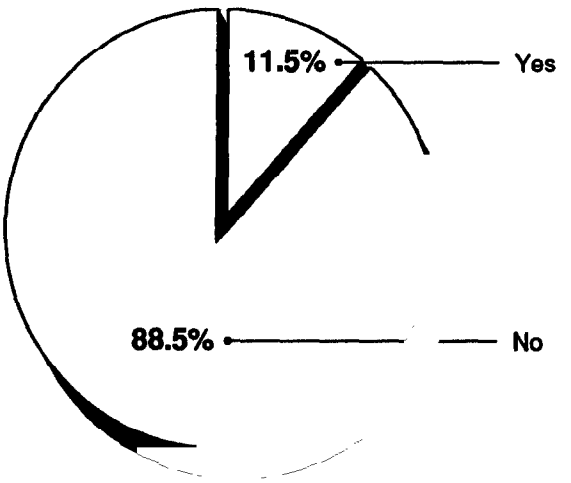
Monitoring of individuals' and groups' participation in First Amendment-type activities is an investigative technique that the FBI uses in conducting international terrorism investigations. In monitoring, the FBI gathers information by directly observing or obtaining information from others (e.g., informants and other law enforcement agencies) about the subjects' participation in such activities. First Amendment-type activities include, but are not limited to, such activities as attending meetings, participating in a demonstration, appearing on radio or television broadcasts, or giving a speech.

The questionnaire and case file data did not contain sufficient information for us to draw conclusions about the FBI monitoring activities, including possible infringement of First Amendment rights. The questionnaire was not designed to provide specific information about the monitoring activity itself; it was designed to indicate only whether or not the FBI monitored First Amendment-type activities during the investigation.

Among the purposes of our review of the 158 cases was to try to determine the types of First Amendment activities that the FBI monitored and the techniques used to monitor the activities. The case files contained narrative, descriptive information, such as the summary memoranda; interview write-ups; results of records reviewed; information provided by informants; photographs of individuals; and copies of documents (e.g., pamphlets and newspaper articles). The files generally did not contain conclusions, except when the reason for closing the investigation was given (e.g., no information was found to indicate that the subject was involved in terrorist activities). In addition, the FBI redacted information it considered sensitive (for example, informants' names and sensitive investigative techniques) or that it had received from other agencies. Had the FBI not imposed these limitations, we may have been able to make conclusions about the FBI monitoring of First Amendment-type activities. (Informants' names were not of interest to us, but investigative techniques were.)

On the basis of the questionnaire results, we estimate that First Amendment-type activities were monitored in 2,080 (11.5 percent) of the 18,144 cases (see fig. 2.2). Of these 2,080 cases, 951 (45.7 percent) involved U.S. persons. Table 2.4 shows the number of cases with monitoring activity by subject type.

Figure 2.2: Percentage of Cases With Monitoring Activity



N=18,144

Table 2.4: Estimated Number of Cases by Monitoring of First Amendment Activities and Subject Type[a]

Monitoring of First Amendment activities	Subject type			
	U.S. person	Non-U.S. person	Other	Total
Yes	951	751	[b]	**2,080**
No	5,944	8,546	1,574	**16,064**
Total	**6,895**	**9,297**	**1,952**	**18,144**

[a]First Amendment rights are afforded to non-U.S. persons as well as to U.S. persons and organizations in the United States.

[b]The sampling error for this number was too large to make a meaningful estimate.

Examples of Monitoring Activities

The following are examples of monitoring activities that we identified during our detailed review of 158 cases. We judgmentally selected these examples to present a variety of what activities were monitored and how they were monitored. We are not identifying the individuals and groups associated with these investigations because the FBI determined that this information was classified.

Case One

The FBI opened an investigation in July 1984 on an individual believed to be a member of a group that, according to the FBI's investigative file, advocates terrorism as a vehicle for obtaining its goals. An informant

provided information to the FBI that was obtained through his attendance at a meeting sponsored by the group. The FBI also noted the license plate numbers of vehicles of individuals attending the meeting. The license numbers and names of the registered owners of the vehicles were indexed. The FBI closed the case in July 1986 because the subject was no longer associated with the group.

Case Two

The FBI opened an investigation in November 1983 on an individual believed to be a leader of a mosque, and his profile fit that of a particular terrorist group. An informant provided information on meetings held by a local chapter of the group to which the subject belonged. The information received indicated that the meetings were typical ones with prayers, readings, and distribution of publications from a country that supports terrorism. The religious meetings were usually followed by political discussions about current conditions in a country that supports terrorism. The FBI closed the case in November 1986 because the subject's activities were limited to handling religious functions at the mosque.

Case Three

The FBI opened an investigation in August 1983 on the basis of information that the subject individual was a member of an international terrorist group. The case was closed in November 1983 because the subject moved to another city. According to the FBI, the case was reopened in February 1984 to determine if the subject of an investigation in another field office was the same individual as the subject of this case. The case was closed in March 1984 when it was determined that the subjects were not the same person. The case was again reopened in March 1987. According to the FBI, this case was reopened in 1987 because the FBI had information about an upcoming fund raiser sponsored by the terrorist group and that the subject, who had returned to the area, was a "hard core" activist for the group. In March 1987, the FBI and an informant monitored the fund raiser, which was held at a local church, to determine if terrorist group leaders were attending the event. The FBI, along with local police and sheriffs' offices, observed and recorded license numbers of vehicles parked in the neighborhood during the fund raiser. The informant also provided the FBI with leaflets, publications, and other items distributed during the event. The FBI closed the case in October 1987 because the subject and his activities were fully identified and the subject was not in a leadership role in the group.

Case Four

The FBI opened an investigation in July 1985 on a mosque that was being run by an organization in the United States known to be involved in intelligence-gathering activities on behalf of a country that supports terrorism. An informant attended meetings at the mosque, where he observed individuals participating in the reading of the Koran, prayers, and lectures. He told of pro-Khomeini meetings being held at the mosque and provided information about individuals attending the mosque. The FBI closed the case in February 1988 when the group moved to another mosque.

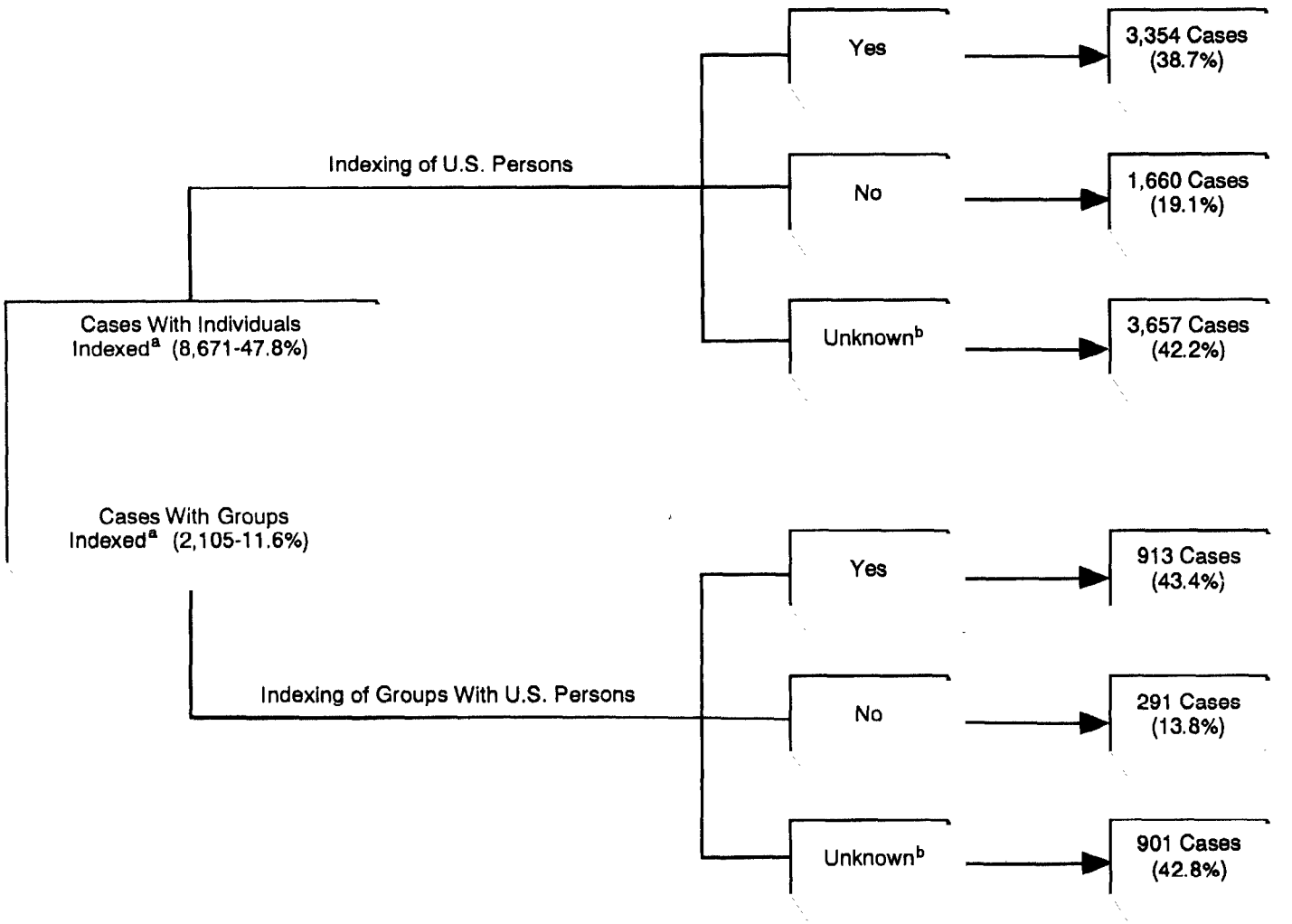
Case Five

The FBI opened an investigation in November 1986 on an individual whose name was listed in an article in a foreign newspaper. An informant provided the FBI with a copy of the publication, which identified the subject and others as contacts for known or suspected terrorists. The FBI closed the case in September 1987 because no information was developed indicating the subject was involved in terrorist activities.

Indexing of Names in Terrorism Investigations

Information that has been collected during an investigation may be indexed into an FBI database for future retrieval. Indexing is an authorized investigative procedure. Figure 2.3 shows our estimate of the number of cases with indexing of (1) individuals and groups and (2) U.S. persons. Indexing of individuals other than the subjects of the investigations occurred in 47.8 percent of the 18,144 investigations, and indexing of groups not the subject of the investigation occurred in 11.6 percent of the 18,144 investigations. The FBI indexed U.S. persons when they were not the subjects of investigations in 38.7 percent of the cases. In addition, the FBI indexed groups that were not the subjects of investigations and that had U.S. persons as members in 43.4 percent of the cases.

Figure 2.3: Indexing of Individuals and Groups Not Subjects of Investigations



N = 18,144

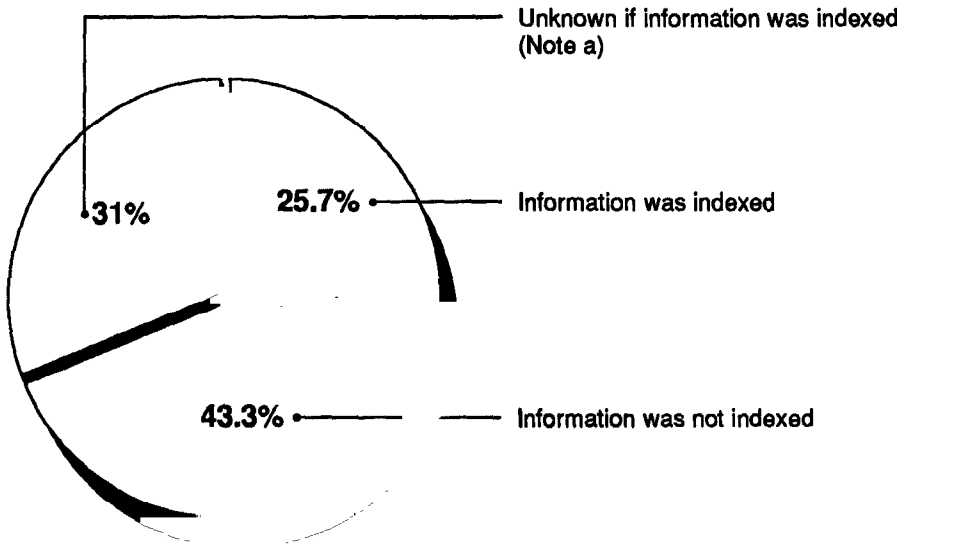
[a]Indexing of both individuals and groups, neither of which are the subjects of the investigations, may occur in any given case. Thus, there is an overlap of cases with indexing in these categories.

[b]Knowledge about the "Unknown" could substantially change the percentages of the "Yes" and "No" categories.

Indexing of Information Because of Monitoring First Amendment Activities

On the questionnaire, we also asked if any indexing had been done as a result of the monitoring activity that had occurred during investigations. Of the 2,080 cases estimated to have had monitoring of First Amendment-type activities (see table 2.4), we estimate that 534 cases (25.7 percent) had indexing of information because of the monitoring activity. For 901 of the 2,080 cases (43.3 percent), no indexing was done as a result of the monitoring activity. For the remaining 645 cases (31.0 percent), however, the person completing the questionnaire indicated that he or she did not know if any indexing had been done as a result of the monitoring activity (see fig. 2.4).

Figure 2.4: Percentage of Cases With Monitoring Activity by Whether Information Was Indexed



N=2,080

[a]Knowledge about the "Unknown" could substantially change the percentages of the "Yes" and "No" categories.

Reasons Cases Were Closed

As shown in table 2.5, on the basis of our questionnaire, the reason cited for closing 67.5 percent of the cases was that no evidence was found linking the subject to international terrorism or terrorist acts. In 22.1 percent of the cases the FBI closed its investigations because the subject moved, left the United States, or could not be located.

Table 2.5: Estimated Number of Cases by Reasons Cases Closed and Subject Type

	Subject type				
Reason for closing cases	**U.S. person**	**Non-U.S. person**	**Other**	**Total**	**Percent**
Could not link the subject to terrorist activities	5,788	5,309	1,143	12,240	67.5
Subject moved or not located	519	2,947	[a]	4,015	22.1
Other reasons[b]	588	1,041	[a]	1,889	10.4
Total	**6,895**	**9,297**	**1,952**	**18,144**	**100.0**

[a]The sampling errors for these numbers were too large to make a meaningful estimate.

[b]Other reasons include subject died, never entered the United States or the field office's territory, was not identified; case was transferred to another FBI field office; or unable to determine from the files.

Conclusions

Our analyses of the questionnaire responses and the 158 cases showed that the FBI did monitor First Amendment-type activities. The FBI monitored First Amendment-type activities in 2,080 (11.5 percent) of the closed cases, according to our questionnaire results. Of these 2,080 cases, the FBI indexed information as a result of monitoring the activities in at least 534 cases (25.7 percent).

We were not able to determine if the FBI abused individuals' First Amendment rights when monitoring these activities or if the FBI had a reasonable basis to monitor such activities. We could not make such determinations because the FBI did not give us complete access to the information in closed cases. Further, the case file information was mainly descriptive and generally did not contain explanations about (1) why the investigative steps, such as monitoring First Amendment-type activities, were taken; or (2) how the information was used.

The FBI's Investigation of CISPES

At the request of the Department of Justice, the FBI initiated a criminal investigation in September 1981 under the Foreign Agents Registration Act of 1938 to determine whether CISPES was required to register under the act. The investigation did not find a violation of the act but pointed out that CISPES did verbally support the opposition movement. The FBI closed the case in February 1982. However, the FBI continued to receive information about CISPES' activities.

The FBI opened an international terrorism investigation on CISPES in March 1983 on the basis of information gathered during the first investigation and information obtained from an informant. The informant said that CISPES was (1) being directed by the Farabundo Marti Front for National Liberation/Democratic Revolutionary Front, an organization identified as a terrorist organization; (2) providing financial support to that organization; and (3) preparing for terrorist activities in the United States. The investigation continued until June 1985, when the Office of Intelligence Policy and Review, after reviewing a summary of the investigation, concluded that "CISPES appears to be involved in political activities involving First Amendment activities but not international terrorism." On the basis of that statement, FBI headquarters ordered the CISPES investigation closed on June 18, 1985.

In January 1988, the Center for Constitutional Rights, a New York based lawyers group, publicly released 50 of about 1,200 pages of material it had received under the Freedom of Information Act from the 14 volume FBI headquarters files on CISPES. CISPES charged that the investigation violated individuals' and organizations' First Amendment and constitutional rights.

FBI's Internal CISPES Report

On February 2, 1988, the FBI Director, at the direction of the President, ordered an independent inquiry of the FBI's handling of the CISPES investigation. In doing the inquiry, senior FBI investigators and inspectors examined the FBI's investigation of CISPES to determine, among other things, if the FBI had broken any laws; violated Attorney General Guidelines or FBI rules, regulations, or policy; or used poor judgment in the exercise of the investigation. The inquiry also addressed, among other things, whether the investigation was initiated on a sound basis; whether the length of the investigation was justified; the oversight by the Department of Justice; the scope of the investigation; the reliability of the informant; and whether indexing was proper.

The FBI's report on its CISPES investigation, dated May 27, 1988, concluded that the FBI properly conducted an investigation of CISPES as a criminal matter from September 1981 until February 1982. On the basis of information received during the 1981 investigation as well as information from an informant, the FBI properly opened the international terrorism investigation; however, the objectives were overly broad. The objectives were to determine the extent of direction and control furnished to CISPES leaders by terrorist groups in El Salvador and the extent and nature of CISPES' involvement in organizing and supporting terrorist activities in the United States. The report concluded that additional investigation would not have been warranted without the informant's information.

The report further concluded that the scope of the investigation was substantially and unnecessarily broadened when FBI headquarters directed all offices to treat each of the estimated 180 CISPES chapters as the subject of an investigation. According to the report, the primary and secondary thrust of the investigation should have been directed at the CISPES National Headquarters in Washington, D.C., and the approximately 10 regional offices. Even though FBI headquarters cautioned that the purpose of the investigation was not to investigate the exercise of First Amendment rights of CISPES members, investigations were authorized on any CISPES chapter as a part of the national organization.

The inquiry also found that inadequate supervision of the CISPES case occurred at FBI headquarters and the Dallas Field Office, which was the field office with primary responsibility for the investigation. Both field and headquarters agents failed to adequately conduct a background check in establishing the informant's creditability and failed to continually ensure the informant's reliability and accuracy. Further, they failed to provide adequate supervision and direction to the informant.

The inquiry further determined that 31 instances of potential violations of the Attorney General guidelines occurred, such as (1) conducting inquiries beyond what is permitted without opening an investigation, (2) receiving information about individuals' mail without having obtained proper authority to get such information, and (3) initiating investigations without an adequate basis for opening them. According to the report, most of the instances were minimal and there was no indication that the noncompliance was anything other than inadvertent.

Finally, the inquiry identified problems noted in earlier FBI reviews and inspections that still existed and contributed to the errors made during

the CISPES investigation. A June 1982 internal audit report—"Terrorism Program Evaluation"—by the Office of Program Evaluations and Audits (OPEA) noted problems similar to those found by the CISPES inquiry. For example:

- Terrorism investigations were being conducted without a widely understood philosophical underpinning for the program.
- Insufficient articulation of policy had contributed to a degree of confusion and uncertainty, a vagueness of purpose, and a lack of uniformity in handling investigative and administrative matters.
- Training had not received sufficient attention, and increased training is needed in the field and at FBI headquarters in the development and handling of informants.

OPEA's June 1983 report—"Study of Informant Development and Operations"—found that even with the importance given to the role of informants in obtaining and bringing criminal investigations to successful conclusions, training agents to oversee informants is practically nonexistent in the FBI.

FBI CISPES Report Recommendations

The FBI's CISPES report resulted in the FBI Director issuing a directive outlining 33 policy and procedural changes to be made regarding such investigations. As of February 14, 1990, all of the 33 recommendations had been fully implemented, according to the Assistant Director, Inspection Division.

One recommendation resulted in the formation of a joint Department of Justice and FBI working group to make recommendations to the Attorney General concerning modification of the Attorney General's Foreign Counterintelligence Guidelines in such areas as (1) the extent to which the FBI can investigate members of a group when the group to which they belong is under investigation and (2) changes to the guidelines to address more specifically international terrorism investigations.

In September 1989, revisions to the Foreign Counterintelligence manual pertaining to international terrorism investigations became effective. The revised guidelines provide field offices more specificity in terms of reporting requirements for international terrorism investigations, particularly as they relate to investigations of organizations.

Objectives, Scope, and Methodology

In a February 1, 1988, letter, the Chairman, Subcommittee on Civil and Constitutional Rights, House Judiciary Committee, asked us to review the FBI's international terrorism program. The Chairman was concerned that the FBI's investigation of CISPES was overly broad and not properly focused. The Chairman wanted us to determine if the FBI collected and reported information on First Amendment activities, as in the CISPES investigation. As agreed with the Subcommittee, we obtained information on

- the basis on which the FBI was initiating international terrorism investigations;
- the scope and results of the investigations;
- whether the FBI had been monitoring First Amendment activities (such as demonstrations, meetings, speeches) during the investigations; and
- the reasons investigations were closed.

By letter dated July 27, 1989, the Chairman requested that we address some additional specific questions during our analyses of all cases (see app. IV). The Chairman's primary concern in his July 1989 letter was about cases the FBI opened on the basis of information that indicated that the subjects of the investigations had only been associated with or linked to a terrorist group.

We agreed with the Subcommittee to limit this review to closed cases only. We did our work at the FBI's headquarters office in Washington, D.C. To obtain information about the FBI's international terrorism program, we interviewed agency officials and reviewed policy documents related to this program.

We obtained an initial listing of all closed FBI international terrorism cases from January 1, 1982, to June 30, 1988, generated from the FBI's Terrorist Information System (TIS). We requested that only "office of origin" cases be listed. According to the FBI, the office of origin is the particular FBI field office primarily responsible for the investigation. Other field offices that assist in the investigation are known as "auxiliary offices." Based on the TIS information, the universe of international terrorism cases closed between January 1, 1982, and June 30, 1988, was 19,446 cases.

We used a two stage sampling process in order to develop a profile of closed international terrorism cases and to select cases for more detailed case review. The first stage was used to identify international terrorism cases of interest and to develop a profile of activities associated with

these cases. For this stage, we randomly selected 1,100 international terrorism investigations stratified by case type from the initial universe of 19,446 closed international terrorism cases.

Subsequent to our selecting a random sample of cases, we determined that the computer print-outs provided by the FBI were not accurate. About 650 cases listed on the computer print-outs had closing dates after June 30, 1988. Further, the closing dates listed on the computer print-outs were not always consistent with the dates completed on the questionnaires. Only 21 of these 650 cases, however, were included in our analyses of 1,003 questionnaires. Because these 21 cases represented only 2 percent of the cases in our analyses, we chose not to adjust the results of our analyses to exclude this small number of cases.

In order to give us current information, the FBI had each field office update its case information in the TIS. Because of the time the FBI needed to update its database of closed international terrorism cases, we decided to proceed by drawing a stratified random sample based on case type in a two-phase process. Using standard statistical techniques, we drew the first-phase sample on the basis of cases identified for 42 of the FBI's 59 field offices.[7] We selected the first-phase sample from these 42 field offices because they were the first ones to have completed updating the database of closed international terrorism cases. We drew a second-phase sample in a similar manner upon receipt of the case listing from the remaining field offices.

We designed a questionnaire to develop a profile of closed international terrorism cases. We asked questions about such things as type of cases, type of subject, number of files, reason for opening the investigation, length of investigation, indexing activity, and monitoring of First Amendment activities. Each case represented one subject (i.e., person or group) under investigation; cases could be opened and closed several times on the basis of updated information or activity, yet they were still considered one case for our analysis purposes.

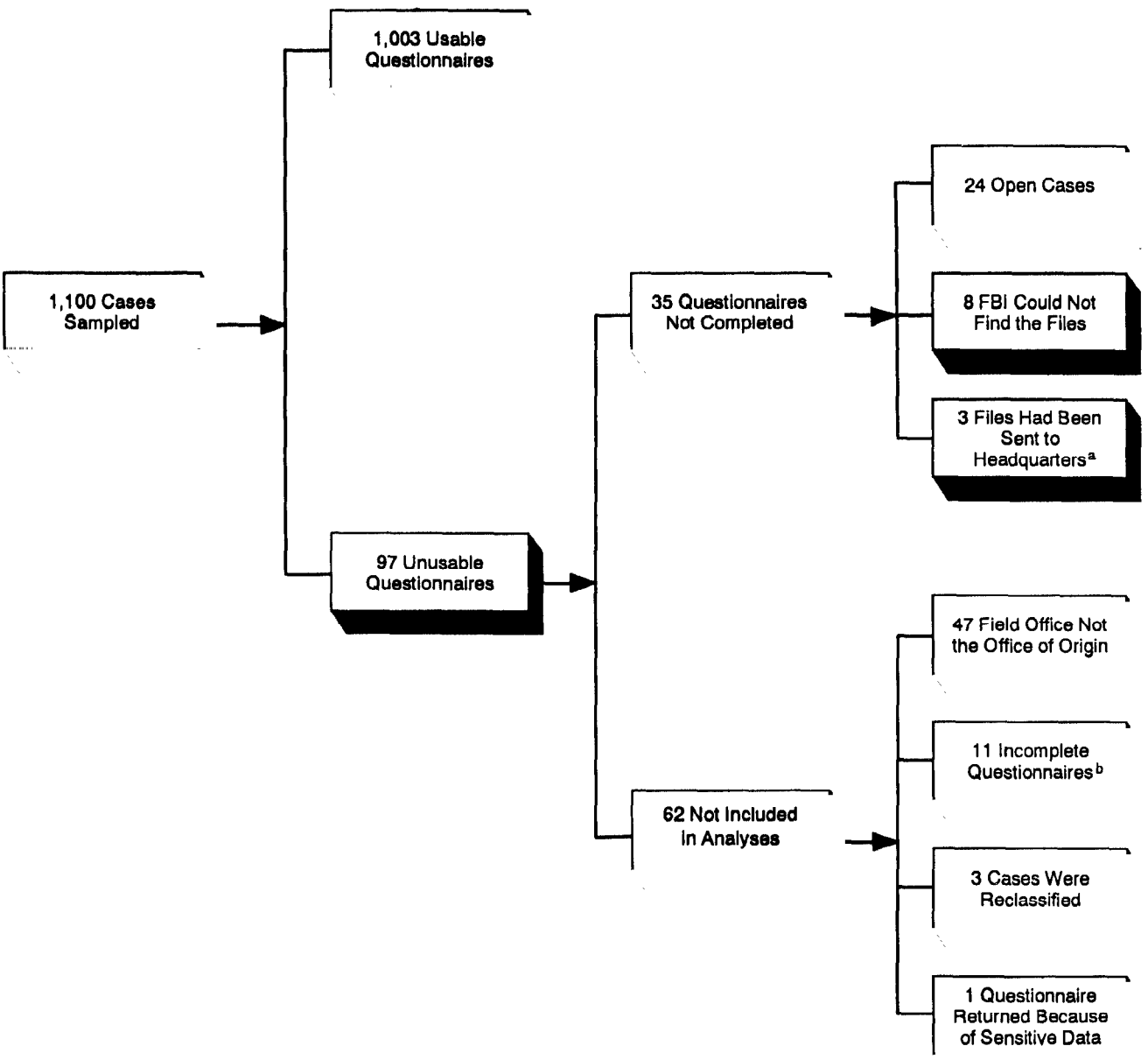
All information and the flow of information was directed through FBI officials in the Terrorist Research and Analytical Center (TRAC), a unit within FBI's Counterterrorism Section. We gave a copy of the questionnaire to TRAC along with the list of sampled cases. TRAC distributed copies of the questionnaire to each of the field offices for completion on their

[7]The FBI currently has only 56 field offices. Since we began this review, the FBI closed its field offices at Alexandria, Virginia; Butte, Montana; and Savannah, Georgia.

cases. FBI field office personnel completed these questionnaires; the completed questionnaires were returned to TRAC, which forwarded them to GAO.

Of the 1,100 questionnaires distributed, 1,003 usable questionnaires (91 percent) were obtained. Figure II.1 shows the reasons why the other 97 questionnaires were not included in our analyses.

Figure II.1: Questionnaires Included in Our Analyses



[a]FBI headquarters officials did not want to complete the questionnaires on these three cases because they believed the field offices were in the best position to know about the investigations.

[b]These questionnaires were incomplete because the files were administrative-type files and did not contain data about investigations.

Because this screening sample was selected from the total universe of closed international terrorism cases, the results obtained are subject to some uncertainty, or sampling error, when projected to the total universe of interest. This is typical when any sampling is done. We chose the sample sizes for each phase so that the sampling error would not be greater than 5 percent at the 95 percent confidence level. This sampling error was generally achieved for the total estimates. We generalized our sample results to an adjusted universe of 18,144 closed international terrorism cases using standard weighting methods.

In our second sampling stage, we grouped the 1,003 cases according to questionnaire responses about the monitoring of First Amendment activities and randomly selected cases for more detailed case file review on the basis of the responses to the questionnaires. This selection process involved focusing on those cases where there was monitoring activity, because we perceived that these cases would have a higher probability of potential infringement of First Amendment rights.

Of the 1,003 usable questionnaire returns agents completed, the survey indicated that some monitoring activity was involved in 229 cases. Of these cases, we randomly selected 120 cases for detailed record review. As a validity check, we randomly selected and reviewed 30 cases where the agents had reported that no monitoring activity took place. Thus, we checked the agents' perception regarding both the presence and absence of this activity. In addition, the House Judiciary Committee, Subcommittee on Civil and Constitutional Rights, asked us to review an additional 10 cases not selected randomly that consisted of 6 or more files.

Thus, we initially identified 160 closed cases for review. We reviewed 158 cases. Of the 160 cases initially selected, 13 turned out to be still open and therefore had to be excluded. We selected 11 replacement cases. We could not select replacement cases for the other two cases because they contained six or more files and no other cases with six or more files existed. In addition to the 13 cases, the FBI classified another 5 cases from the original 160 as sensitive. We were told that almost all of the information from these sensitive cases would have been removed before the FBI would have given us the files. We selected five replacement cases. Had we kept these sensitive cases in our sample, the FBI would have withheld or extensively redacted almost all of the information in these files because a sensitive investigative technique or information source would have been identified.

Similar to the questionnaire, the cases sampled for the detailed case file review were also controlled through TRAC. We submitted our sample list of cases for review to TRAC personnel, who requested that the actual case files be sent to headquarters. The FBI's Legal Counsel Division's Civil Discovery Unit redacted the case files. Since we did not have access to the actual case file prior to redaction, we are unaware of what may have been screened out. Accordingly, we had material available for our review only after the redaction process.

We developed a case file review sheet for coding the 158 closed international terrorism cases selected. The primary activities reviewed concentrated on the following: (1) the basis for initiating the case, (2) investigative techniques used during the investigation, (3) any First Amendment activities that were monitored and/or observed either by the FBI or a secondary source, and (4) the reason the case was closed. Information about the 158 cases represents only these 158 cases, and we are not projecting the results to the universe.

Summary of Selected Cases Reviewed

The following case summaries are from the 158 cases we reviewed. These examples were judgmentally selected to describe a variety of cases showing the reasons the cases were opened, some of the First Amendment-type activities that were monitored during the investigations, and the reasons the cases were closed. The case files did not always explain why membership in a specific group warranted an investigation. We are not identifying the individuals and groups associated with these investigations because the FBI determined that this information was classified.

Case One

The FBI opened a case in March 1982 on a group on the basis of information that it was working in concert with members of a terrorist organization, which reportedly had engaged in terrorist acts. The information also indicated that it directed and controlled the terrorist organization. According to a March 1982 memorandum from FBI headquarters, the

> "investigation of the [group] and its chapters should include identification of . . . [its] chapters throughout the United States, organizational structure, leading members, and support from foreign based terrorist organizations."

Various investigative techniques were used during this investigation, including interviewing individuals, using informants to obtain information, obtaining various publications, and physical and photographic surveillance. For example, a January 1983 memorandum from the field office to FBI headquarters indicated that publications were obtained and photographs were taken during a recent demonstration. According to the FBI, the photographs were then used to identify leaders of a known terrorist group. Another January 1983 memorandum indicated that information about a large meeting (about 400 members) was obtained through an FBI information source. The FBI closed this case in December 1988 because the investigative objective had been met. The objective, according to the September 1988 closing memorandum from FBI headquarters, had been to identify those group members who were directly supporting or directing the terrorist operations of the other group and thereafter initiate separate investigations on those individuals.

Case Two

The FBI opened a case in November 1981 on the basis of information that a group was preparing to assassinate high level U.S. officials. The case was closed in June 1982. From the information in the files, we could not determine why the case was closed. The closing memorandum from the

field office simply stated that no further investigation was being conducted at that time. The case was reopened in October 1983, apparently in connection with the bombing of the U.S. Marines headquarters building in Beirut, Lebanon. The case was again closed in August 1984 because the FBI could not develop any evidence indicating that the group was engaging in terrorist-type activities. This case was then reopened in March 1986 on the basis of information giving reason to believe that the group was, or may have been, engaged in international terrorism or activities in preparation thereof, or knowingly aiding or abetting a person in the conduct of these activities. Instances of monitoring of First Amendment activities during the investigation included FBI sources providing numerous publications and information about the events occurring at meetings and demonstrations. One source provided a video cassette of a meeting held at a local mosque. Another source told the FBI about a movie being shown at a local theater that depicted Israeli attacks on Lebanon and said that the group's supporters had attended the showings and held meetings there. A February 1988 memorandum from FBI headquarters questioned continuing the investigation. The memo stated in part:

"A review of FBI [headquarters] files regarding above captioned group . . . reveals the majority to be involved in the following activities: 1) Fundraising, allegedly for the purpose of providing humanitarian assistance to 'victims' of the civil war in Lebanon.

"Subsequent to this review of information at [FBI headquarters], it does not appear that further investigation is warranted. Consideration is particularly given to the lack of any terrorist acts committed by captioned group or one in which this group claimed credit."

In response to FBI headquarters' February 1988 memorandum, the field office closed the case in March 1988 because it could not develop specific and articulable facts that the group was involved in international terrorism as defined by the Attorney General's guidelines. In its closing memorandum, the field office wrote:

" . . . will advise appropriate Field Offices to discontinue investigation of the [group] and related [cases] whose sole criteria for investigation is their association with the [group] or contact by leading elements within the [group]."

Case Three

The FBI opened a case in January 1984 on an individual on the basis of an informant's allegation that the subject was a self-described advisor to one terrorist organization and a member of another. The Department of

Justice's Office of Intelligence Policy and Review (OIPR) reviewed a summary memorandum for this case and, in December 1985, FBI headquarters informed the field office that it was OIPR's opinion that the report lacked information regarding terrorist activities, or support of terrorist activities, on the part of the subject. In response to the memorandum, the field office closed the case in December 1985 because it could find no evidence that the subject had participated in terrorist activities or acted in concert with alleged members of a terrorist group.

Case Four

The FBI opened a case in May 1986 on an organization because it was named in a brochure distributed by another group affiliated with a country that supports terrorism, which was the subject of another FBI investigation. The brochure was obtained by the FBI during a physical surveillance of a gathering or meeting. The field office closed the case in August 1986, indicating that all logical investigation had been completed with negative results.

Case Five

The FBI opened an investigation in September 1985 on an individual to determine his affiliation with a particular organization. According to the case files, the objective of the organization is to overthrow the government of a foreign country, and a branch of the organization was responsible for a number of terrorist incidents. The subject of another FBI investigation had a driver's license with this subject's address. The field office, in its opening memorandum, stated that it was opening the case on this subject, along with three other individuals, to develop additional background information and to establish their possible relationship with the organization. During the investigation, an informant provided the FBI with information about conferences that were held by Islamic groups. Further, copies of the publication "Martyrdom" were obtained and reviewed as part of the investigation. Moreover, a list of U.S. and foreign Islamic organizations was provided to the FBI by another U.S. federal agency and was made part of the files. The investigation was closed in June 1988 because the subject had moved in August 1987 and continued investigation failed to locate the subject.

Case Six

The FBI opened an investigation in December 1981 on an individual identified as having been married to the daughter of a high level foreign official of a country that supports terrorism. In its opening memorandum, the field office indicated that it was opening the investigation

to determine if the subject was involved with the governments of countries that sponsored terrorism in furtherance of some terrorist activity. We did not see any indications of monitoring activities when we reviewed the files. According to the field office's closing memorandum, the case was closed in January 1983 because the investigation failed to develop any information that the subject was involved in any illegal or terrorist activities. The case was reopened in November 1984 on the basis of an informant stating that the subject was a trusted and well-regarded agent of a country that supports terrorism and that the subject also worked with an individual to get arms for that country. In its opening memorandum, the field office cited that it had closed its previous investigation of the subject because of the lack of evidence connecting the subject to terrorist activities. The memorandum also cited that the previous investigation revealed strong circumstantial evidence of a case of marriage fraud. The field office also stated in this memorandum:

"[The field office] feels strongly that [subject] is an important [foreign] agent, although it is doubtful that investigation will be able to document this or result in a successful prosecution of [subject]."

The case was closed in February 1986, again because the investigation failed to develop any information concerning the subject's participation in terrorist activities.

Case Seven

The FBI opened an investigation in January 1984 on the basis of information that the FBI observed the subject at a lecture by a supporter of a terrorist organization. The subject was identified as someone organizing a support group and who had collected money for the terrorist organization. Other than the FBI observing the lecture at which the subject was identified, we saw no other indication of monitoring activities when we reviewed the case file. The case was closed in July 1984 because the subject had been fully identified, was known to local sources, and no information had been developed to show that the subject was forming a support group for the terrorist organization.

Response to Specific Questions in the Chairman's July 27, 1989, Letter

As indicated in chapter 2, we selected 158 cases for detailed case file review. In his July 27, 1989, letter, the Chairman asked that we address the following questions on the basis of our review of these 158 cases. The information presented below reflects the circumstances found in only the 158 cases we reviewed. The percentages reported in each question represents only these 158 cases and can not be generalized to the universe. (See app. II, pp. 35 and 36, regarding how these 158 cases were selected.)

Q1. What percentage of the case files you reviewed on subjects associated with or linked to terrorism involved the monitoring of First Amendment activity?

A1. Of the 158 cases reviewed, 70 cases were opened on subjects associated with or linked to terrorism. Of these 70 cases, 50 cases (70 percent) were on individuals that involved the monitoring of First Amendment activity, and 3 cases (4 percent) on groups or organizations that involved the monitoring of First Amendment activity.

Q2. What percentage of the case files you reviewed with more than two volumes involved (a) subjects associated with or linked to terrorism, (b) U.S. persons, and (c) monitoring of First Amendment activity?

A2. There were 43 of the 158 cases we reviewed that had more than 2 volumes. Of these 43 cases, (a) 16 cases (37 percent) were opened on the basis of information that the subject was associated with or linked to a terrorist group, (b) 21 cases (49 percent) were opened on subjects who were U.S. persons, and (c) 36 cases (84 percent) had monitoring of First Amendment activity during the investigation.

Q3. What percentage of case files you reviewed on subjects associated with or linked to terrorism involved indexing of names other than the name of the subject?

A3. Of the 70 cases on subjects associated with or linked to terrorism, 64 cases (91 percent) involved indexing of individuals other than the subject, and 2 cases (3 percent) involved indexing of groups or organizations.

Q4. What percentage of case files you reviewed on subjects associated with or linked to terrorism provided information leading to an arrest?

A4. Of the 70 cases reviewed on subjects associated with or linked to terrorism, 2 cases (3 percent) led to an arrest. The subjects of these two cases were not groups or organizations.

Q5. How many open international terrorism cases are there?

A5. As of June 30, 1989, the FBI had about 1,500 to 1,700 open international terrorism investigations.

Q6. How many closed cases had more than two volumes of files and what was the range?

A6. Of the 158 closed cases we reviewed, the number of files per case ranged from 1 to 24 files. Forty-three of the 158 cases had more than 2 files.

Q7. What is the range and average number of serials (documents) per file volume?

A7. Of the 158 cases reviewed, the average number of serials per file was 55 and ranged from 1 to 170 serials.

Q8. For the case files of one or two volumes, provide some examples of how many names of groups or individuals (other than the subject's name) were indexed per case?

A8. We asked the FBI to provide us with print-outs from the headquarters Automated Records Management System (ARMS) and the Field Office Information Management System (FOIMS) for 25 of the 158 cases we reviewed. ARMS is an integrated computerized system used within FBI headquarters to support the information needs of the FBI's Records Management Division. FOIMS is an automated system developed to assist FBI field offices in the collection, collation, analysis, coordination, and dissemination of information on criminal and intelligence investigations. Information is indexed into both systems.

We asked the FBI to provide us with a list of the indexing done for 25 selected cases and to show only once any names that had been indexed in a variety of ways. For example, if Jane W. Doe had been indexed in a case in several different ways (i.e., Jane W. Doe, J. W. Doe, Jane Doe), we wanted the list to count that indexing as only one entry. FBI officials said that they could minimize the repetitions, but that there might still be some names that would show up more than once because of how they

were indexed. We did not attempt to verify the information provided by the FBI.

We selected 25 cases that had only 1 or 2 files to trace the amount of indexing that was done during these investigations. The cases were selected because these were the only ones of the 158 cases we reviewed that (1) had only 1 or 2 files and (2) were opened after (or just shortly before) FOIMS had been implemented. The results of our review of the ARMS and FOIMS indexing are summarized in tables IV.1 and IV.2, respectively.

Table IV.1: Results of Indexing in ARMS for 25 Selected Cases

	Subjects		Other indexed items				
Case	Names	Misc.	Names	Organ.	Tel.no.	Other[a]	Total
1	1	0	8	3	2	2	**16**
2	1	0	26	3	3	0	**33**
3	1	0	37	4	10	0	**52**
4	1	0	4	1	0	0	**6**
5	1	0	6	0	0	0	**7**
6	1	0	3	0	0	0	**4**
7	1	0	23	7	12	1	**44**
8	0	0	0	0	0	0	**0**
9	1	0	1	0	1	0	**3**
10	1	0	0	0	0	0	**1**
11	0	0	0	0	0	0	**0**
12	1	0	34	5	1	0	**41**
13	1	0	3	1	1	0	**6**
14	1	0	34	0	3	0	**38**
15	1	0	13	3	0	0	**17**
16	1	0	18	3	0	0	**22**
17	1	0	5	0	0	0	**6**
18	1	0	3	1	0	0	**5**
19	0	0	0	0	0	0	**0**
20	0	0	0	0	0	0	**0**
21	2	0	0	0	0	0	**2**
22	0	0	0	0	0	0	**0**
23	1	0	36	3	1	0	**41**
24	1	0	3	1	0	0	**5**
25	1	0	1	0	0	0	**2**
Total	**21**	**0**	**258**	**35**	**34**	**3**	**351**

[a]Other includes such items as addresses and license plate numbers.

Table IV.2: Results of Indexing in FOIMS for 25 Selected Cases

	Subjects		Other indexed items				
Case	Names	Misc.	Names	Organ.	Tel.no	Other[a]	Total
1	3	0	49	2	0	0	**54**
2	0	0	6	3	2	0	**11**
3	4	0	46	7	26	0	**83**
4	7	0	0	0	0	0	**7**
5	6	0	27	0	1	0	**34**
6	2	1	4	0	0	0	**7**
7	3	0	48	2	13	9	**75**
8	3	1	4	0	0	2	**10**
9	4	0	7	0	2	2	**15**
10	8	0	17	3	9	11	**48**
11	1	0	1	0	0	0	**2**
12	3	0	70	5	0	1	**79**
13	0	0	0	0	0	0	**0**
14	1	0	6	0	0	0	**7**
15	1	0	75	18	2	0	**96**
16	3	0	40	11	22	5	**81**
17	1	1	19	1	10	2	**34**
18	1	0	0	0	0	0	**1**
19	2	0	14	1	1	0	**18**
20	1	0	0	0	0	0	**1**
21	2	0	0	0	0	0	**2**
22	0	0	4	0	0	0	**4**
23	6	0	32	3	11	4	**56**
24	0	0	0	0	0	0	**0**
25	0	0	0	0	0	0	**0**
Total	**62**	**3**	**469**	**56**	**99**	**36**	**725**

[a]Other includes such items as addresses and license plate numbers.

In 18 of the 25 cases, more items were indexed into the FOIMS than were indexed into ARMS. For six cases, more items were indexed into ARMS than into FOIMS. For the remaining case, the same number of items (two) were indexed into both systems.

Q9. What reports or analyses compiling information from two or more international terrorism cases did the FBI prepare during the period January 1, 1982, through June 30, 1988? How did the FBI decide what reports or analyses to prepare, and what data did it use?

A9. We obtained an overview from agency officials about TRAC's role in supporting international terrorism investigations. We were not allowed to interview TRAC analytical staff. However, we did receive a written response to questions we asked regarding TRAC's analytical capabilities, the types of analytical assistance (reports/analyses) TRAC provides to the operational units and field offices in support of their international terrorism investigations, and how these reports/analyses are used. The following information was provided by the FBI in response to our questions.

In 1980, TRAC was established at FBI headquarters to (1) automate and analyze information collected on known terrorists and terrorists groups active in the United States, (2) make assessments of the information, and (3) publish various reports and forecasts of potential terrorist threats. The Terrorist Information System (TIS), a database established in 1985, is an on-line computer system that TRAC maintains to support the counterterrorism program and its investigations.

FBI officials said that TRAC does not routinely prepare reports that show actual or potential relations among subjects of investigations or groups. TRAC conducts research on terrorist groups that have planned or have been engaged in violent or intelligence-gathering activities. TRAC-prepared reports and analyses are done at the request of FBI headquarters or field supervisors, with the approval from FBI headquarters before their preparation and dissemination. When preparing these documents, TRAC personnel conduct research by reviewing FBI investigative files, public source documents, and information received from other components of the U.S. intelligence community. The FBI considers the reports as educational in nature and intended to improve the effectiveness of the FBI's investigative agents.

TRAC disseminates FBI analytical studies and other terrorist-related information to FBI personnel; appropriate agencies of the U.S. government; and occasionally to foreign or domestic law enforcement agencies, depending upon the subject of the investigations and the intended targets—for example, a head of state.

We asked for a list of reports and analyses generated by TRAC since January 1987. FBI officials said that TRAC maintains a list of reports and analyses dating back only one calendar year. However, the FBI provided a sampling of the types of reports and analyses generated by TRAC during calendar years 1988 and 1989 (see table IV.3). FBI officials said

they could not provide us with a complete list because it would include information about ongoing investigations.

Table IV.3: Examples of TRAC Reports
(Calendar Years 1988-1989)

Research projects:	- Domestic right-wing neo-Nazi Groups
	- Far East—an investigation case analysis
General projects:	- Terrorists threat assessment for the White House
	- Input to the 1988 TRAC publication entitled "Terrorism in the United States"

In addition to the examples of reports generated by TRAC shown above, the FBI also responded to various congressional inquiries, did research for speeches, and responded to other miscellaneous questions.

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