

MEMORANDUM FOR THE RECORD

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Event: ASAC Kelly Darden

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Location: FBI, Miami Field Office

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Background. Kelly Darden received a B.A. in Speech and Communications as well as Government and Foreign Affairs from the University of Virginia (UVA) in 1981. He received his J.D. from UVA in 1984. He went to Quantico in October 1984 and was in Knoxville, Tennessee until mid-1988. Because Knoxville was a small office, he did everything as a Special Agent – bank robberies, fugitives, organized crime drug work, foreign counterintelligence (FCI), legal advisor, etc.

In 1988, he had been selected to teach at Quantico, but then was shifted to Headquarters (HQ) to work on civil litigation with the Office of General Counsel. In 1992, he came to Miami – a few days before Hurricane Andrew hit. He worked with the Forfeiture Asset and Seizure Team (FAST), which was an organized crime drug program, for 1.5 years. Then, he worked for 6 months with the organized crime drug program; in particular, he worked on a covert drug program called Stagehand. From there, he went to the West Palm Beach Resident Agency (RA) for one year, where he served as the Second Supervisor, overseeing all programs except white collar crime. This included overseeing the Ft. Pierce RA (about 80 miles north of West Palm Beach), where there were six agents. In this area, there are many fraud scams of the elderly population – particularly health care fraud. Immigrants were also being scammed.

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Darden said that he did this until 1999 and had a 4-5 month stint as Acting ASAC. He said he had also worked on CTAC, which was a cyber initiative that looked at critical infrastructure and information systems. He set up a cyber squad and co-located it with the CART (Computer Analysis Response Team) program. The big focus was on cyber warfare in the counterintelligence (CI) arena. He said there was a question about whether it was a white collar crime or in the CI/National Security side of the house. Ultimately, it became a part of the counterterrorism (CT) program and evolved into the NIPC (National Infrastructure Protection Center).

Office Structure Pre-9/11. At the time, the Foreign Counterintelligence (FCI) ASAC was also the Violent Crimes ASAC. He said it was called the NFIP (National Foreign Intelligence Program). It included 24 FCI bodies, 24 IT (International Terrorism) bodies, and 3 countersecurity guys. All reported to one ASAC. There was also an Organized Crime/Drug ASAC, there was a White Collar Crime ASAC, there was an Administrative ASAC (to cover OPRs, RAs, training, applicants, etc.) and there was an Associate SAC, who was the second person in command for the office. In June, 2000, a new ASAC was created to cover FCI, exclusive of violent crime. This ASAC handled FCI, terrorism (2 squads), NIPC, security programs, applicants, training, surveillance, and civil rights. There was an IT squad that handled all issues [redacted] included) and which had an FCI body dedicated to it, and there was a DT squad, which also handled bombtech, WMD issues, and special events:

JTTF. The Florida Department of Law Enforcement (FDLE) had been a longstanding member of the JTTF. One of their members had become an FBI Agent. It included members from the Miami-Dade Police Department (MDPD), the Department of State [redacted]. There was also some INS and ATF participation (Darden said the INS was a critical player). It became a little political, Darden said, because they were looking at IT stuff (e.g., a provisional case on arms smuggling [redacted] and the

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FDLE wanted their guy to work DT matters. At this time (2000), the outside reps were on both DT and IT squads (prior to that there was only one JTTF squad). Darden said that since 9/11, everyone is on board. Darden said that generally the representatives were on the JTTF on a full-time basis, but occasionally they would get pulled to work on special events with their home agencies.

Darden said that the outside reps worked both cases and sources. He said the MDPD had a good grasp of [redacted] and they did a good job of developing sources and were able to disrupt a number of things. He said they "worked side-by-side with us."

Pre-9/11 MFO Priorities. Darden said that this was the structure on 9/11 and that terrorism was not the priority on 9/11. He said the order of priorities for the office on 9/11 were: organized crime/drugs, white collar crime, violent crimes, "maybe" FCI (including DT), civil rights ("always near the bottom of the list"), and applicants. Darden said that "eventually we ranked things differently" while FCI/IT was put together. He said that FCI/IT "had not been the priority; I was fighting for bodies."

1999 EC. When asked about the 1999 Electronic Communication (EC) stating that IT was now the #1 priority, Darden referred to Bear Bryant's tier-system and a 5-year plan. He also said that they were worried about Y2K in 1999. He said that the MFO "was working like crazy on this; our burn rates were high, we didn't know what was going to happen. We did move resources accordingly." Nevertheless, he said, "you can't have an EC edict and have everything change overnight." He said that they had "a Director's edict, a 5-year plan, and our own Crime Survey for this area – and we had to figure out how to balance the needs and demands."

TURK, Burn Rates, Stats-Driven. Darden said that there was no collateral shift in resources from HQ to support the changes the EC demanded. They still had to deal with the TURK: "we were concerned about using bodies outside their program." He explained that if they didn't use the personnel resources for their established program, then they would lose those bodies. "So we had these edicts, but not the support." Darden said that the SAC had questioned how they could make CT their #1 priority given their constraints, and the SAC was "put in his place and told to just do it."

Darden said there is a constant concern for stats and that they "don't get those for prevention." He said the FBI remains stats driven and that "the Inspection staff comes in with the same old parameters." He said they have mixed incentives. "We lost bodies due to the burn rates." He said they were caught between a rock and a hard place. "We could not do both" – IT and use the old measures.

Darden said that 9/11 forced the issue and that now "it is a totally different story." Things changed overnight. He said that pre-9/11, they had to justify why they were "under burning" in the priority areas – which they were allowed to do when they had special events like the Super Bowl and Y2K, but otherwise they had to put the personnel

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resources where they were assigned. Also, Darden mentioned that previously, [redacted] intelligence driven cases were not arrest/stats cases.

Summer, 2001. When asked if he heard about the increased chatter during the Summer of 2001, Darden said that he "didn't really hear about it down here. In May, 2001, I was up at Quantico for an in-service and I heard Tom Pickard say, 'It is too quiet.' And we heard about [redacted] but the concern seemed to be only overseas, not here."

Pre-9/11 Threat Assessments and Resource Allocations. When asked if they were doing any threat assessments, Darden mentioned Dale Watson and his Tier System and 5-year plan and said that they had been doing some of that. Darden said that they did color coding on Florida's state of readiness in certain areas (such as training, personnel). Through this process, they recognized the need for more analysts and the need for them to get proper training. Darden said that he understood that Freeh had put a request into Congress for more bodies in this area and so Darden concluded that there was "an ongoing assessment."

When asked whether there was much of a shift in Miami, Darden said "it wasn't much of a priority here - we didn't have the bodies. There were no different or new FSLs here from headquarters." He said that he was "constantly embarrassed about saying how we were going to refocus, reorganize when we couldn't get resources or approval to make changes." After 9/11, "we were finally told to just burn what you need." He said that HQ asked the to do a CT assessment. Darden said that they were using as a baseline some of the work they had done already for AFORs, etc.

Post 9/11 Resource Reallocation. Even after 9/11, Darden said that there was still some resistance to shifting the necessary resources. He said that they still had to convince people that the good work on drugs, etc. (i.e., getting stats) needed to stop in order to shift resources to CT and CI - to those who were, Darden said with irony, "watching the grass grow." There was the sense that resources were either going to go toward compiling stats or watching the grass grow. They got mixed messages from HQ.

Darden said that the Miami office lost 15 drug and other criminal bodies to support the nationwide FCI initiative. They also lost one of their CI bodies - going from 24 to 23. Darden said that it is more acceptable now to move resources to where there is an identified need, except for specially funded positions. The budget director now says that they can burn as they see fit on CT. Nonetheless, Darden said they still get mixed messages. [redacted]

[redacted] "How are we going to do it?" Darden referred to a 60-page document on CI, page 38 and said that it says that if the field office is going to move CI bodies, permission is needed from the Assistant Director at HQ. Darden said that as a result they got "written up for sending one or two people from CI to CT."

Affect of Penttbom Investigation on the Office. When asked how much the Penttbom investigation affected the office, Darden said that he was unhappy about the

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(January 2003) Inspection Team's failure to understand how big of an impact the Penttbom investigation had on the office. He said that they were focused on other chatter, other possible attacks and putting up more FISAs. He said that "pretty much everything" stopped of the Penttbom effort and that it impacted them for the better part of a year. Darden said that everyone was running out leads, even the CI folks in the immediate aftermath of 9/11. They had agents, financial people, and analysts go to HQ to assist with the Penttbom investigation and "we had many leads to pursue here." They tried to assign people TDY outside of CT program.

Darden said that the office had had an inspection in October of 2000 and that they had a process, readiness assessments. He said that just as they would have been completing their plans a year later, they were dealing with Penttbom. Darden said the Inspection Team got it wrong: he said that they had requested additional CT resources, but just not in a form that they were used to seeing it - "because we were operating post-9/11." He said: "I was told not to do a CI Threat Assessment because we were supposed to receive a national model from the HQ CI Program." And then they got "written up" by the inspection team for failing to do a CI threat assessment. "So then we did it, and then the national model comes out."

Changes after 9/11. Darden said that in the immediate aftermath of 9/11 they could not jump immediately from the two terrorism squads they had to the major reorganization that they eventually went through. Initially, things were being run out of Washington. So, Darden was unhappy with the criticism of the Inspection Team. He said that the status of the office was not as bad as it seemed from the Inspection Report. He said the inspection team has a check list and does not look behind the initial observation. The team just did not recognize what they were doing in the wake of 9/11, Darden said. He said that they are contracted to find something wrong and so they need to find something. Some inspectors came with "a contract on the SAC's head."

Green Acres Incident. [This was fuzzy during the interview.] Darden talked about how there had been a complaint by phone about a neighbor leaving suddenly for Saudi Arabia and that it had been put in a No Action Control File. Six months later there was another complaint and the Supervisory Special Agent decided that something should have been done the first time a complaint came in. Action was taken, but HQ was not told. The SAC immediately told the Director since the AG was being briefed. And so it all "blew up" and a mini Inspection Team was sent down in January 2003. Darden said they didn't have time to do the paperwork to prepare for the inspection. So the January 2003 inspection was an unfair snapshot, according to Darden.

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which made for an "odd" situation. Darden said that he had most of these programs: "I was overtasked. I had four of the top five priorities."

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Information Sharing Problem with Customs. Darden spoke of a recent incident in which Customs made a terrorism-related arrest (arms running) and the FBI learned about it from the news. Even the Customs rep on the JTTF didn't know about it. So, there was an information flow problem going both ways. The FBI made a call and took the case over. Darden expressed the same concern with the Domestic Security Task Force. He said they don't want to trip over the FDLE.

Process of Reorganization Post-9/11. Darden said that the reorganization after 9/11 was iterative, [redacted] He said that T-4, the Intelligence Center, was new and is a clearing house for all information (in order to avoid Green Acres situations). He said that there is a sheet for an analyst to do all of the internal checks before sending it to the squad. Many things are forwarded over to the CI side of the house. T-4 has the bulk of the outside representatives. They do a weekly report -- one

classified, and one unclassified so that it can be sent out. This squad is the hub, Darden said.

Analysts. Darden said that they recognized the need for analysts and that they need to retrain them for CT/CI purposes. He said that the majority of the analysts are on T-4, but they are also on the substantive squads. Before the reorganization, most of the analysts (the few) were at the Miramar location on a drug squad. Darden said that agents and analysts like to have analysts on the squad because they are more integrated. [Darden's explanation of how the analysts were placed and why was extremely vague and weak. Compare to interviews of analysts on T-4 interviewed yesterday. But, in his defense, this is not his responsibility as ASAC; it is under Figuizzi's control.]

After the October 2000 Inspection Report findings on span and control it became clear that – overnight – he had 4 of the top 5 priorities under his control (when they had not been priorities before). Darden said that they looked to the New York office for an organizational model to split off CT from CI. He said that NIPC became its own program. Darden said that they came up with a number of ideas on how to reconfigure programs and priorities. Darden said they collectively worked with the SAC to figure out what made sense. They worked over a period of time and then made the final announcement in November 2002. They got feedback from squads.

Darden said that they determined that they needed an Infrastructure Protection squad to focus on power companies, nuclear plants, and phone companies, etc. After looking at the Threat Response they decided they needed an Immediate Response Squad to pursue immediate leads and then pass them on as investigations to the appropriate substantive squad or close out the leads.

Darden explained that the SAC tasked the ASACs with proposing ways to reconfigure the office. The SAC didn't tell them what role they would each have and so there was no incentive to try to hold on to particular issues. They knew that there would be 5 ASACs. They had to propose what would be best for the office and none of the recommendations were to be based on who would control what. He said that pre-9/11 they still did not think about splitting CT away from CI, but that it became clear after 9/11 that CI had to be split off. They had to draft mission statements for each of the squads. It was clear that CT was going to be the priority. Darden said that they knew that how they restructured the CT program was going to affect everything else. They knew that they would be losing drug bodies, for example.

Darden explained that moving agents or creating SSA positions requires HQ approval and therefore time. They had budget problems and issues before (at one point, they were worried that they didn't have gas money for the cars). Since 9/11, getting money for CT has not been much of a problem. Darden did say that they don't have space for the CI Task Force and that they need money because sophisticated techniques are expensive.

Intelligence Collection in Miami Post-9/11. After 9/11, Darden said they

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have received a lot of direct information. Darden said that they have had people working info to the MFO as well.

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Darden said that they have started to look at the mosques in Miami. They had been reluctant to do this before. They did reach out to the Muslim community and got they got some help this way. Darden said that after 9/11, they learned of some backlash against the Muslim Community in the area and so they held town meetings to talk about the civil rights concerns and they sent agents out to mosques to speak to congregations about their concerns and to show presence in the community. He said that they had tried to get the INS agents involved, but they were told not to. He said the Attorney General's initiative encouraged reaching out to the community and to talk to "persons of interest."

Darden said that the Absconder initiative was primarily focused on Muslims and they worked this with the Anti-Terrorism Task Force (which is now called the Anti-Terrorism Advisory Committee, or "ATACs," and these are sponsored by the U.S. Attorneys Office and DOJ). Darden said that they stepped up efforts at radical mosques and against radical imams.

Darden said that more agents are seeking more sources now. Darden spoke about a recent town hall meeting that was sponsored by Channel 10 on the Patriot Act. The ACLU was going to be there and the FBI planned to go, but the U.S. Attorney decided they shouldn't go because it was so political. "But we got a lot of flack for not showing up."

Recommendations. Darden said that it was most important that we keep politics out of our report. He said the main thing is to ensure that the FBI has adequate resources. He said that he thought it was hypocritical when he saw Members of Congress singing "God Bless America" on the steps of the Capitol, when "these were the same people that were nickel-and-diming us." He complained that we were going to spend \$87 billion on Iraq, but that they couldn't get cars and computers. He said that the FBI needs the tools to do the job right. He said the CIA is not suffering from lack of resources the way the FBI is. "We need to make the investment. Same goes for the Patriot Act. We shouldn't shortchange the law enforcement/intelligence community."

Darden said that the FBI can provide leadership to the state and locals which get grants from the federal government. Again, he said that the FBI needs the money and is worse off.