

**SPECIAL
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Remembering 9/11

Is the U.S. safe from terrorist attacks?

As the 10th anniversary of the Sept. 11, 2001, terrorist attacks approaches, Americans continue to examine whether the U.S. response over the past decade has made the homeland safer. While the government has taken a variety of measures to defend against similar attacks, legal questions over the treatment and prosecution of terror suspects have ignited longstanding debates over the legitimacy of the U.S. approach to the “war on terror” launched by President George W. Bush and continued by President Barack Obama. Meanwhile, with the country at war in Afghanistan and intent on dismantling Al Qaeda, policymakers are asking whether it remains a credible threat to U.S. national security after the killing of Osama bin Laden. Inside the United States, though, a domestic jihadist subculture has arisen — against the backdrop of anti-Muslim sentiment among many Americans — that some say could also pose a threat to U.S. security.



Nearly two-thirds complete, 1 World Trade Center in New York City rises above the site of the twin towers that were destroyed in the Sept. 11, 2001, terrorist attacks. Soaring to a symbolic 1,776 feet, the building, scheduled for completion in 2013, will be the nation's tallest. It is one of five skyscrapers planned for the site.

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Remembering 9/11

BY KENNETH JOST

THE ISSUES

Ten years later, the gaping hole left in lower Manhattan by the deadliest foreign attack on the United States in history remains largely unfilled.* But a new skyscraper is nearly two-thirds complete at Ground Zero to replace the iconic twin towers that stood there for 30 years until the terrifying morning of Sept. 11, 2001.

When complete, 1 World Trade Center will rise 1,368 feet from ground level, topped by an antenna structure that will reach the symbolic height of 1,776 feet. Many of the visitors who come to the site from all over the country and around the world see construction of the 104-story building as a demonstration in concrete and steel of American resolve after the terrorist attacks that so changed the United States, possibly forever.

"It's so beautiful to see how it's coming," says Ken Morris, a social worker with military veterans visiting in mid-August from Fort Lauderdale, Fla., just as he has done almost every year for the past decade. "It's sort of like our anti-terrorism beacon saying, 'We will survive.'"

The building, due to be finished in 2013, has been long in coming. "It's a national shame that they haven't done this much sooner," says Gene Duffy, a former New Yorker visiting from California whose father was an iron-

* The Japanese attack on the U.S. naval base at Pearl Harbor on Dec. 7, 1941, leading to America's entry into World War II, was the second-deadliest foreign attack on the United States: 2,388 men were killed.



Getty Images/Mario Tama

Twin waterfalls and reflecting pools, located inside the footprints of the destroyed World Trade Center towers, form the centerpiece of the eight-acre 9/11 Memorial in New York City, to be dedicated Sept. 11. Some 400 oak trees line the memorial plaza, and bronze parapets bear the names of the 2,983 persons killed in the 2001 terrorist attacks in Manhattan, at the Pentagon, in rural Pennsylvania and in the 1993 WTC garage bombing.

worker on the original World Trade Center. Like so many of the nation's responses to 9/11, the building has been and remains controversial — with debates over design, cost overruns and public subsidies. (See "World Trade Center," p. 720.)

Those controversies will be set aside on the 10th anniversary of the attacks, however, as President Barack Obama leads a host of dignitaries in dedicating the National September 11 Memorial. The centerpiece of the eight-acre memorial and park will be two large waterfalls and reflecting pools set within the footprints of the former towers. The pools will be surrounded by bronze parapets with the incised names of the 2,983 persons

killed by Al Qaeda terrorists at the World Trade Center in New York, the Pentagon in Northern Virginia and a field in rural Pennsylvania.** (See "9/11 Casualties," p. 704; "9/11 Memorials," p. 709.)

The country has gone through a lot since 9/11: two wars, two close presidential elections, two economic crises. But despite the continuing fears and foreboding in the aftermath of the attacks, there has not been another successful hijacking or bombing, only thwarted attempts. In the 10 years since 9/11, only 14 Americans have died within the United States in terrorist incidents clearly attributable to radical Islamist views akin to Al Qaeda doctrine. (For a compilation of 30 CQ Researcher reports on 9/11-related issues since 2001, see p. 730.)

"Our country is stronger than we were a decade ago," Department of Homeland Security (DHS) Secretary Janet Napolitano declared in June. "We have indeed bounced back from the worst attacks ever on our soil. And we have made significant progress in many fronts needed to protect ourselves."¹

Napolitano's predecessor agrees. "We've done a lot to make us more secure," said Michael Chertoff, who held the Cabinet post for four years under President George W. Bush. Even if the country suffered a major terrorist attack, Chertoff said, "We would not fall to pieces."²

Outside experts also generally pronounce the United States safer. "It is more difficult for a group like Al Qaeda

** The list includes the six people killed in the Feb. 26, 1993, bombing of the World Trade Center garage.

After 9/11, Few Killed in Jihadist Attacks in U.S.

Nearly 3,000 people died in the Sept. 11, 2001, terrorist attacks on the World Trade Center and Pentagon and in rural Shanksville, Pa. In the decade since 9/11, however, attacks in the United States clearly attributable to individuals or groups embracing Al Qaeda's radical Islamist views have claimed only 14 lives.

Islamist-Linked Attacks in the United States

Where	When	Deaths	Prosecutions
World Trade Center garage	Feb. 26, 1993	6	Six radical Islamists were convicted in trials in March 1994 and November 1997; all were given long prison sentences.
WTC North Tower Flight 11	Sept. 11, 2001	1,470	Khalid Sheikh Mohammed, alleged 9/11 mastermind, expected to stand trial in military tribunal with four co-defendants: Ramzi Bin al-Shibh, Walid bin Attash, Ali Abdul Aziz Ali and Mustafa Ahmed al-Hawsawi.
WTC South Tower and rest of complex		87	
Flight 175		60	
First responders		441	
Pentagon		125	
Flight 77		59	
Flight 93 (Shanksville, Pa.)		40	
Post-9/11 Attacks			
Little Rock, Ark.	June 1, 2009	1	Abdulahkim Muhammad, formerly Carlos Bledsoe, sentenced to life imprisonment on July 25 after pleading guilty to murder in a state court.
Fort Hood, Texas	Nov. 5, 2009	13	Maj. Nidal Malik Hasan to stand trial for capital murder in a military court in March 2012.

Source: National September 11 Memorial and Museum, news reports

today to conduct an attack on the scale of 9/11 than it was before," says Brian Fishman, a counterterrorism research fellow at the centrist New America Foundation in Washington.

"We're clearly more secure," says Benjamin Wittes, a senior fellow at the center-left Brookings Institution in Washington and author or editor of three books on war-on-terror issues. "There have not been substantial successful attacks in the United States, and the ambition of the attacks has gone down."

"Al Qaeda is trying to pull off a car bombing today," Wittes explains. "That's a big change from what they were doing 10 years ago."

Visitors interviewed at the World Trade Center site in mid-August also generally expressed confidence in personal safety from possible terrorist attacks. "I feel pretty safe," says Eugene Schlanger, a lawyer in New York City. Adoria Williamson, a scheduler for the Boeing Co. in Doylestown, Pa., agrees. "We're more aware and more cautious than we were before," Williamson says. "I guess it's a lifestyle now."

Most of those questioned are also content with the enhanced security procedures put in place since 9/11 — most conspicuously, the rigorous pre-flight screening for passengers aimed at preventing hijackers from boarding

with weapons or explosives. "I don't mind it at all," says Matt Talbot, a recent high school graduate visiting from Milwaukee. "I'd rather have them do it than not do it."

Civil liberties and human rights groups, however, say the "war on terror" initiated by Bush and carried over with modifications by Obama has done as much or more to impinge on personal liberty and tarnish American values as to enhance security. "A decade after 9/11, we continue to permit the fear of terrorism to dominate our legal and political discourse," says Hina Shamsi, director of the American Civil Liberties Union's National Security Project.

Civil liberties groups criticize broadened investigatory powers enacted in the USA Patriot Act barely six weeks after 9/11 and renewed most recently in May. They also criticize the still-obscure electronic surveillance program that Bush personally authorized three weeks after the attacks and that Congress later ratified with modifications. And they have severely criticized the Bush administration policies of detaining so-called enemy combatants at the Guantánamo Bay Naval Base in Cuba and subjecting some “high-value” terrorism suspects to harsh interrogation techniques — including waterboarding and sleep deprivation — that many have called torture.

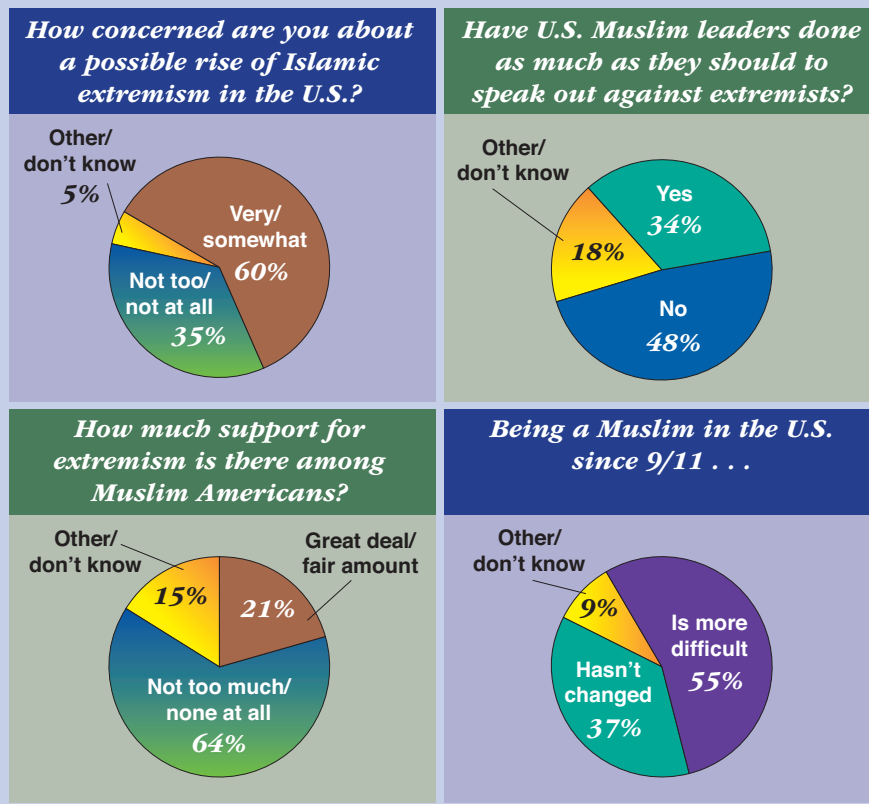
Conservative experts and observers, however, defend the broadened law-enforcement powers and other policies adopted during the Bush administration. “American policies . . . kept the homeland safe from attack for a decade,” writes Abe Greenwald, senior editor of the influential neoconservative magazine *Commentary* in a cover story entitled, “What We Got Right in the War on Terror.” Greenwald credits the result to “thinking and acting more boldly than we have in generations.”³

Whatever the balance sheet may show on security and liberty, the “war on terror” has brought an at-times uncomfortable focus on American Muslims. A small and largely unrecognized minority in the United States before 9/11, Muslims have drawn both interest and suspicion in the years since. Within the past year, Muslims in communities around the nation have been put on the defensive by local opposition to the building of mosques, including a planned Islamic center a few blocks from Ground Zero, and by state campaigns to bar the use of Islamic Shariah law, the Islamic code that guides Muslim beliefs and actions.

Muslim groups and experts who promote interfaith dialogue dismiss the controversies as politically motivated. “It is an instigated campaign to drive a

Many But Not All U.S. Muslims Fear Extremism

Sixty percent of American Muslims are concerned about Islamic extremism in the United States, but one-fifth see considerable support for extremism among American Muslims. Nearly half say U.S. Muslim leaders have not done enough to speak out against extremists. More than half of those polled say being a Muslim has become more difficult since 9/11 because of tougher national-security policies, but nearly 40 percent of Muslims say some Americans have expressed support for them (chart below).



In the past year . . .

People have acted suspicious of you	28%
Been called offensive names	22%
Been singled out by airport security	21%
Been singled out by other law-enforcement officers	13%
Been threatened or attacked	6%
Some expressed support for you	37%

* Figures may not total 100 due to rounding.

Source: “Muslim Americans: No Signs of Growth in Alienation or Support for Extremism,” Pew Research Center, August 2011, people-press.org/files/2011/08/muslim-american-report.pdf

A Survivor's Story: 'Every Day Could Be the End'

How 9/11 changed Walter Masterson's life.

The Tribute WTC Visitor Center provides daily tours around the World Trade Center site led by people affected by the Sept. 11 attacks: survivors, family members, recovery workers, neighbors, volunteers. Here is one survivor's story.

Walter Masterson remembers the World Trade Center as "an extraordinary place to work," a complex of seven buildings dominated by the 110-story twin towers that rose 1,360 feet into the sky. On an average day, several hundred thousand people passed through the center's below-ground rail transit hub. The retail stores offered anything a person could want. "If you worked there," Masterson recalls, "you never had to go outside the building."

Masterson, now 65, then worked as a senior business analyst for an investment bank, on the top floor of a nine-story building. On Tuesday, Sept. 11, 2001, he was in the office early for a conference call. Many others who worked in the complex were coming in late. Some parents were taking their children to the first day of school; others were voting early in the statewide party primaries.

At 8:46 a.m., "an explosive sound, louder than anything I'd ever heard before," startled Masterson. He looked outside and saw nothing. But above his line of sight, five Al Qaeda hijackers had just crashed American Airlines Flight 11 from Boston into the north tower, between the 93rd and 98th floors.

A few seconds after the crash, Masterson saw a chunk of concrete "the size of an automobile" crash into the courtyard. "Debris hit so fast I couldn't see the plaza," he says. "There were millions of sheets of paper flying through the air."

Masterson fled along with others; no one in Building 5 was killed. People in the lower floors of the north tower also began to evacuate. With the uppermost stories now in flames and the stairwells blocked, however, many others faced the terrifying choice of leaping to their death or perishing by incineration.

Quickly, hundreds of firefighters, police and rescue workers began to converge on the scene even as employees in the complex rushed out. Confusion reigned. The crash was initially thought to be a ghastly accident — a badly piloted small private aircraft. People in the south tower were initially told to stay in the building, but then a few minutes later to evacuate. First-responders' communications devices were not interoperable, or failed to work.

Then at 9:07 a.m., United Flight 175 hit the south tower, carving a hole extending from the 77th to 85th floors. Images of the crash — in real time — were viewed by uncounted millions of people throughout the world.

By 9:59, the south tower had begun to collapse; floor after floor pancaked onto the one below in a matter of seconds. The north tower followed to the ground at 10:28. By then, two other hijacked airplanes had crashed. American Flight 77 cut a gaping hole in the Pentagon at 9:37 a.m. United Flight 93 crashed shortly after 10 in rural Pennsylvania, near Shanksville, after passengers tried to overpower the terrorists.

For Masterson, some of the day's events are a blur. "I went into shock," he says. He cannot recall seeing anyone jump from the

wedge in our society between Muslims and others," says Salam Al-Marayati, president of the Los Angeles-based Muslim Public Affairs Council.

But the groups promoting the campaigns say American Muslims need to do more to denounce and counteract the support for anti-American jihadism in some U.S. and worldwide Muslim communities. "Muslim community leaders must take a more active role in educating their own faith community about the dangers associated with providing a safe haven for" literature supportive of violent jihad, David Yerushalmi, general counsel of the Washington-based Center for Security Policy, writes in an article co-authored with an Israeli academic in the *Middle East Quarterly*, which echoes conservative Israeli views.⁴

The United States marked its biggest victory in the war against Al Qaeda on May 1 with the killing of the terrorist group's leader, Osama bin Laden. Obama went on television late on a Sunday night to announce the results of an elaborately planned raid by U.S. Navy SEALs on a compound in Abbottabad, Pakistan, that the Saudi-born terrorist had apparently used as a hideout for years.⁵

Even before bin Laden's death, other top Al Qaeda figures had been killed or captured in U.S. raids or drone attacks. "We're much more secure because we've killed or captured much of Al Qaeda's leadership," says Andrew McCarthy, a senior fellow at the conservative National Review Institute and lead federal prosecutor in the 1995 sedition trial of the militant Islamist Sheikh Omar Abdel-Rahman,

the so-called "blind sheikh." With bin Laden's death, government officials and counterterrorism experts openly speculated whether the United States could claim victory over Al Qaeda even though offshoots, notably the Yemen-centered Al Qaeda on the Arabian Peninsula, continue to draw attention. (See sidebar, p. 712; "At Issue," p. 723.)

With the 10th anniversary of the 9/11 attacks prompting new scholarship, fiction and nonfiction titles, news coverage and commentary, and much solemn reflection, here are major questions being considered:

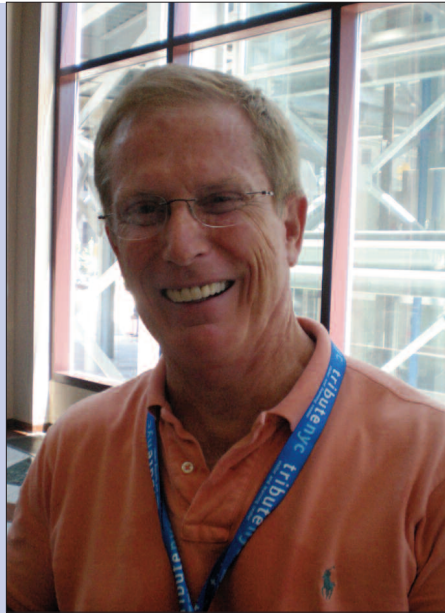
Has the United States done enough since 9/11 to prevent terrorist attacks?

Naser Abdo put the clerk on edge on July 26 when he arrived by taxi at

towers, but he heard what he came to realize were the sounds of bodies hitting the pavement. He does remember going into a nearby Catholic church and, uncharacteristically, kneeling to pray. Eventually, he called his teenage daughter's school to say he was all right. A second call, to his ex-wife, would get word to his three older children.

The message to his daughter at school was never delivered. Hours later, Masterson finally heard from her. She was still at school, held there with other students as a precaution against an attack of yet unknown dimension. "All she could do was cry," he says, choking up himself. "I didn't even know she liked me."

Reflecting a decade later, Masterson says the cataclysm brought out the best in the people of New York. He is most in awe of the first responders who braved the terrifying scene, including 343 firefighters who lost their lives. "What heroism they had to walk into that, I cannot imagine," he says. For the civilians, he remembers efforts to maintain order amid the chaos. "People were rushing to get out, but



Walter Masterson, a tour guide at the new World Trade Center site, was a business analyst when he witnessed the Al Qaeda attacks from a nearby office building. Now a therapist, he says, "If you have something you want to do, do everything you can to have it."

CQ Press/Kenneth Jost

they weren't trampling" each other, he says.

For days after, New York City was on its best behavior. "Rudeness vanished," Masterson recalls. "Everybody helped. Nobody wanted for anything." Thousands of New Yorkers donated blood, but little was needed. People had either escaped to safety or died at the scene.

The events of the day changed Masterson's life. In college, he had hoped for a career as a therapist, but he set the idea aside after marrying young and starting to raise a family. With 9/11 in mind, Masterson went back to school for a degree in social work. Now he has a part-time psychotherapy practice in Manhattan.

"That was the last day of their life, and they had no idea," Masterson says of those who died on 9/11. "The thought occurred to me that if you have something you want to do, do everything you can to have it."

He adds: "Every day is an opportunity, and every day could be the end."

— **Kenneth Jost**

Guns Galore, in Killeen, Texas, and showed little knowledge as he asked about the store's stock. Greg Ebert's suspicions were further aroused when Abdo left the store without change or a receipt after buying \$250 worth of gunpowder and ammunition.

Ebert and his fellow employees had good reason for wariness. The pistol that Maj. Nidal Malik Hasan allegedly used in the November 2009 massacre of 13 at nearby Fort Hood came from their store. Ebert reported Abdo's purchase to local police, who enlisted FBI agents to help question and then arrest Abdo at the motel where the AWOL Army private was staying.

The arrest may have thwarted a second terrorist attack on the giant military base. "We would probably be here today, giving you a different brief-

ing, had he not been stopped," Killeen Police Chief Dennis Baldwin said at July 28 news conference. Army officials said Abdo, who is Muslim, admitted planning an attack. The next day, he shouted Hasan's name as he was led out of the courtroom after an initial appearance.⁶

Ebert's call fit a recent pattern of terrorist plots or attempts foiled by watchful civilians. Citizen tips have led to terrorism arrests and convictions in New Jersey and a pending terrorism case in Texas. Quick warnings by onlookers in New York's Times Square alerted police on May 1, 2010, to a car-bomb attempt. And airline passengers have been credited with thwarting two post-9/11 attempted bombings: the Dec. 25, 2009, at-

tempt by the so-called underwear bomber, Umar Farouk Abdulmutalab; and the Dec. 22, 2001, attempt by the so-called shoe bomber, Richard Reid.⁷

"We're more sensitive now to the fact that these attacks might happen," says Lawrence J. Korb, a senior fellow at the liberal Center for American Progress, who served as an assistant secretary of Defense from 1981 to 1985 during President Ronald Reagan's first term. "If you leave a package somewhere now, people will call."

Public awareness, in fact, is one of several components that Napolitano credits for strengthening anti-terrorism efforts since 9/11. In her June speech, she noted that the now familiar "If you see something, say something" campaign



AFP/Getty Images/Henny Ray Abrams



Getty Images/Dept. of Defense/Tech. Sgt. Cedric Rudisill

Day of Destruction

On a cloudless September morning 10 years ago, jetliners hijacked by Al Qaeda terrorists crashed into buildings viewed as symbols of American financial power and military might: the twin World Trade Center (WTC) towers (top) and the Pentagon (bottom). Along with 441 firefighters and other first responders who died at the WTC, 1,557 people died in the North Tower crash and collapse, and 755 from the South Tower crash and collapse. A total of 184 people were killed at the Pentagon, including 59 passengers on American Airlines Flight 77. Forty died near Shanksville, Pa., when Flight 93 crashed in a field as passengers tried to overpower the hijackers.

that originated with the New York City subway system has spread with DHS's encouragement to other transit systems, federal buildings and sports and entertainment venues.

Napolitano also pointed to two major law-enforcement initiatives: the establishment of 72 so-called intelligence fusion centers designed to bring together local, state and federal information on possible terrorist threats and the nationwide "Suspicious Activity Reporting" initiative to train local and state law enforcement on telltale clues about potential terrorists.

The various law enforcement initiatives since 9/11 have come at a cost — about \$75 billion per year in federal and state spending, according to an investigation by the *Los Angeles Times*. "The amount of money has been enormous," Brookings Institution fellow Wittes says. In the early years, there were complaints that anti-terrorism funds were distributed widely to rural and small-town law enforcement instead of concentrated in urban centers more likely to be terrorist targets. The fusion centers have received more than \$420 million in federal grants since 2004 but are now facing possible budget cuts.⁸

Still, Fishman at the New America Foundation credits the stepped-up domestic security along with the killing of Al Qaeda leaders and operatives with seriously eroding the jihadist network's capabilities. "Jihadi terrorism is a dangerous threat to us politically, but in terms of a threat to individual Americans the threat level is extremely low," he says.

Korb also sees progress, but offset by counterproductive actions and policies, such as the Guantánamo detentions and the war in Iraq, that have created "a whole new generation of terrorists" at home and abroad. "On the whole, we've moved in the right direction," he says, "but not as far as we could have if we hadn't overreacted."

Continued on p. 710

Turning Profane Places Into Sacred Ground

Memorials at the three 9/11 sites take different approaches.

“We challenge you to create a Memorial that translates this terrible tragedy into a place of solace, peace, and healing.”

— Family statement to designers of National Pentagon Memorial

The victims of 9/11 died at locations far apart and markedly different: a hyperactive urban center, a super-secure military complex and a remote Pennsylvania field last used as a surface coal mine. The memorials on the three sites — one opened in 2008, the others are to be dedicated the weekend of Sept. 10-11 — take different approaches as dictated by their locations to fulfill the common goal of transforming sites of profane tragedy into sacred ground.¹

“We are not nostalgic about the events of 9/11,” Brent Glass, then-director of the Smithsonian’s National Museum of American History and an expert on the history of memorials, explained at a July 26 program sponsored by the National Building Museum that featured representatives from each of the sites. “But almost immediately there was a public consensus that we should memorialize the people who died that day.”

New York City’s 9/11 Memorial will be the most expensive of the three, at a cost of \$700 million for the memorial and an underground museum, which will open in September 2012. The eight-acre site is expected to have an annual operating budget of between \$50 million and \$60 million. The memorial was rushed to completion in time for dedication on Sunday, Sept. 11, the 10th anniversary of the attacks.

By contrast, the two-acre Pentagon Memorial, located on the Pentagon grounds and dedicated by President George W. Bush on Sept. 11, 2008, cost a relatively modest \$22 million.

The Flight 93 Memorial, surrounding the crash site of the fourth hijacked airplane, is projected to cost \$60 million by the time of its anticipated completion in 2014. The 2,000-acre memorial is oversized in order to minimize the impact of visitor traffic on the tiny nearby town of Shanksville, Pa. The first phase of the memorial will be dedicated on Saturday, Sept. 10.

President Obama is expected to attend each of the dedications and to visit the Pentagon Memorial during the weekend.

Admission will be free at each of the memorials. The admission

cost of the 9/11 Museum in New York is under consideration, according to museum director Alice Greenwald, with either a fixed charge or a suggested donation needed to offset operating costs.

The New York memorial has been slow in coming not only because of the time involved in a design competition and in construction but also because of the many controversies along the way. The plan combines the goals of memorialization and urban redevelopment. Half of the former World Trade Center site is used for the memorial, an open urban park lined by 400 oak trees, with five new skyscrapers to be built on the rest of the land.

A major difficulty was the placement of the 2,983 names of those killed on bronze parapets lining the two giant reflecting pools at the center of the memorial. Listing the names alphabetically was rejected if only to avoid separating spouses with different last names. Mayor Michael Bloomberg’s suggestion to list names randomly was also turned down.

The final decision, as Greenwald explained at the National Building Museum program, was to link names on the basis of “adjacencies” — passengers on each of the three flights grouped together; the same for family members, friends and coworkers. Computers were needed to sort out the sequencing.

The Pentagon Memorial uses cantilevered metal benches to commemorate the 184 people killed in the third of the crashes on 9/11. The benches are organized in lines based on the victims’ ages — from the youngest, age 3, to the oldest, age 71.

The Flight 93 Memorial commemorates the 40 passengers and crew who died after overpowering the terrorists in order to divert the plane from its intended target: the U.S. Capitol in Washington. The crash site — the Field of Honor — is to be surrounded by a one-mile walkway. A 93-foot “Tower of Voices” will stand at the entrance to the memorial, containing 40 large wind chimes that designers intend to evoke the sound of the wind and voices aboard the plane during its final moments.

— Kenneth Jost



Silverstein Properties/Joe Woolhead

One of two waterfalls and reflecting pools at the 9/11 Memorial site in New York City, to be dedicated on Sept. 11. An underground museum featuring displays and artifacts related to the 1993 and 2001 terror attacks on the World Trade Center is scheduled to open in September 2012.

¹ Each memorial has a website: National September 11 Memorial and Museum, www.911memorial.org; National Pentagon Memorial, <http://pentagonmemorial.org>; Flight 93 National Memorial, www.nps.gov/flni/index.htm. For reviews, see these articles published in *The Washington Post* on Aug. 28, 2011: Philip Kennicott, “Two stark voids. But in a city of life,” p. E7; “At site of crash, a peaceful tribute,” p. E6; Manuel Roig-Franzia, “A lesson for the living,” p. E8.

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Daveed Gartenstein-Ross, a senior fellow at the conservative Foundation for Defense of Democracies and author of a new book critical of anti-terrorism policies, responds that much of the funding has been badly spent. “Politicians often use spending as a proxy for security,” he says. “The problem is not that the United States has not done enough; the United States in many ways has done too much. But the systems we have in place are not particularly efficient.”

As one example, Gartenstein-Ross criticizes the requirement for thorough inspection of all airline passengers — no matter how unlikely they are to stage an attack. “Our current security expenditures are not sustainable,” Gartenstein-Ross says. “We eventually will be put in a position where we have to strip them down. That will raise the risk of a successful attack.”⁹

Whatever gains may have been made in domestic law enforcement, Stephen Schwartz, founder and executive director of the Center for Islamic Pluralism in Washington, says the United States will remain vulnerable as long as terrorist networks can operate outside U.S. borders.

Securing facilities is a perfectly reasonable action to take, says Schwartz, a Muslim convert and author of a book on Islamic fundamentalism. “But the goal should be eradication. Protecting the homeland can’t be done without taking action to end the threat.”

Attacks on the United States, whether originating abroad or from within the country, are all products of Asian or Middle Eastern terrorist networks, Schwartz argues. “As long as those people are active abroad, they’re going to continue organizing conspiracies in the United States,” he says. “The conspiracies uncovered here have not had to do with grievances of people living in the United States; they’ve had to do with Yemen, Pakistan, Afghanistan.”¹⁰

Has individual liberty been sacrificed to security since 9/11?

Nicholas Merrill was the president of a small Internet access and consulting company in 2003 when he was served with a so-called national security letter from the FBI demanding that he turn over what he considered sensitive information about one of his clients. The government has issued hundreds of thousands of subpoena-like “letters” since 9/11 — but with no need for court approval — using expanded authority provided by the Patriot Act.

Rather than turn over the information, Merrill got help from American Civil Liberties Union (ACLU) lawyers to represent him in a lawsuit challenging the order as well as the Patriot Act provisions governing them. In addition, the suit challenged the unique “gag order” that barred Merrill from disclosing any information about the order — to the target of the investigation or anyone else — or even his own identity in challenging it.¹¹

Merrill’s suit eventually forced Congress to modify the gag-order provision. In the meantime, a massive report by the Justice Department’s Office of Inspector General documented widespread FBI abuses and misuses of national security letters in collecting personal information about customers from Internet service providers, financial institutions and credit card companies. Even so, the government continues to use national security letters in large numbers. And Congress rejected any new restrictions on their use when it reauthorized the Patriot Act in late May.¹²

Besides the expanded authority for national security letters, the Patriot Act also broadened the government’s power to obtain business records and allowed the government to use “roving wiretaps” to track a target’s use of different devices. And Congress in July 2008 approved an overhaul of the Foreign Intelligence Surveillance Act (FISA) that broad-

ened the government’s ability to use wiretaps in foreign terrorism cases. The bill included a provision demanded by President Bush to immunize telecommunications companies for having cooperated with the expanded electronic surveillance program that he authorized after 9/11 without going to Congress.¹³

Civil liberties and privacy advocates, including some on the political right such as the libertarian Cato Institute, say the various provisions allow the government to invoke national security to justify intrusive investigations with little evidence. The critics say the broadened electronic surveillance also inevitably sweeps up communications of individuals with no known connections to terrorism cases. “We have created a national surveillance apparatus which is enormous but does not at the same time have limitations through oversight mechanisms from Congress or the courts,” says Shamsi with the ACLU.

Security-minded experts say any loss of liberties has been minimal and, in any event, necessary for preventing new terrorist attacks. “Certainly there are areas with constraints on personal liberty that didn’t exist 10 years ago,” says Gartenstein-Ross at the Foundation for Defense of Democracies. “The question is not whether there has been a decline in civil liberties. The question is how to balance that against gains in security.”

Bush administration officials often framed war-on-terror policies as efforts to balance security and liberty. Echoing a passage in Obama’s inaugural address, Napolitano rejects the premise. “There is a false dichotomy if you have to say we have to sacrifice liberty for security,” the DHS secretary said in the June 7 speech. “We don’t. We just have to think about them at the same time and look for common-sense and pragmatic ways to make sure that both are being pursued.”

Civil liberties advocates agree. “It’s a

false notion that we need to balance our liberty and security interests,” says Mason Clutter, director of the rule of law program at the bipartisan Constitution Project in Washington. “They’re not mutually exclusive. We don’t gain one by giving up the other. We can increase our security by increasing our liberty.”

Some experts also insist that the controversial measures have not been necessary or even useful in counterterrorism efforts. “Many balances that could have been struck between security and liberty weren’t,” says Jeffrey Rosen, legal editor for *The New Republic* and author of a pre-9/11 book critical of privacy-invading data collection systems. “We adopted feel-good technologies and laws that unnecessarily invaded privacy and liberty without making us safer.”¹⁴

In a detailed report issued in May, researchers at the progressive Breakthrough Institute, an Oakland, Calif., think tank, reported finding “no credible evidence” that controversial counterterrorism tactics, including expanded electronic surveillance and data mining, have played “any significant role” in foiling terrorist plots since 9/11. The most effective counterterrorism measures are “the least controversial,” the report concludes, citing such steps as strengthening port and border security and drying up terrorists’ funding channels.

The expanded surveillance has actually been “counterproductive,” according to the report, co-authored by Nick Adams, director of the institute’s science of security program. “Policies

allowing for easy surveillance of people who have little reason to be suspected of terrorism have flooded security agencies with informational noise and generated thousands of false leads that distract them from real threats,” the report states.¹⁵

Experts concerned about security, however, find little to fault in the electronic surveillance. “I didn’t see anything remotely that was wrong with that,” says *National Review’s* McCarthy. “More of the opposition was political than constitutional.”



Two days after the 9/11 attacks on the World Trade Center, Dennis Diaz, a member of Local 100 of the Service Employees International Union, searches the Wall of Prayers at the entrance to Bellevue Hospital in New York for some 80 missing union members employed at the Windows of the World Restaurant on the 106th-107th floors of the north tower.

McCarthy and others note that Obama voted for the surveillance overhaul as a senator in 2008 and has continued the program as president. But Brookings’ Wittes says the program is hard to evaluate because its workings remain obscure. “We don’t know what this program is, even to this day,” Wittes says.

Despite the continuing controversies, civil liberties advocates find little inclination in Congress or under Obama to rein in the most controversial anti-

terrorism powers. “There’s a lot less outrage,” says Julian Sanchez, a research fellow at the Cato Institute and author of a report in May that outlined possible legislative changes. “It no longer seems like emergency powers. It seems like the new normal.”¹⁶

Do radical Islamist views pose a threat in the United States?

Oklahoma voters went to the polls last Nov. 2 to combat what they were told was a potential threat to political and civil rights in the state. The ballot measure listed as State Question 755 proposed to bar the use of Islamic Shariah law in Oklahoma courts.

In proposing the measure, state Rep. Rex Duncan, a Republican, called it a “pre-emptive strike against Shariah law coming to Oklahoma.” Three weeks before the election, leaders of the anti-Islamist group ACT! for America warned in an op-ed article that Shariah — viewed by some non-Muslims as harsh and inhumane — is part of a “comprehensive, theo-political system” that limits rights for women and “severely” curtails freedom of speech or religion.

Muslim leaders in Oklahoma called the proposal absurd and discriminatory. The state’s two leading newspapers editorially opposed it. But ACT! pumped \$60,000 into the campaign, helping to pay for 600,000 pre-election robocalls with an endorsement from former CIA director James Woolsey, an Oklahoman. In the end, the measure won approval by an overwhelming 70 percent of the vote.¹⁷

With approval of the measure, Oklahoma voters joined lawmakers in two

Getty Images/Primera Hora/Jose Jimenez

Is Al Qaeda Still a Threat?

Defense secretary says it's all but beaten; others remain wary.

When newly confirmed Defense Secretary Leon E. Panetta declared in early June that the United States is on the verge of vanquishing Al Qaeda, he touched off a spirited debate between those who see the terror group as largely defunct and others who view it as a continuing threat.

The debate is taking place against the backdrop of the killing of Osama bin Laden in Pakistan by U.S. Navy SEALs in May. President Barack Obama announced the death on the eighth anniversary of President Bush's declaration that "major combat operations in Iraq have ended" — a comment delivered about six weeks after the invasion of Iraq under a banner reading "Mission Accomplished" that has become a cautionary example of a premature declaration of victory.¹

Panetta, who replaced Robert Gates as Defense secretary, served as Central Intelligence Agency (CIA) director since the first days of the Obama administration.

"Now is the moment, following what happened with bin Laden, to put maximum pressure on them, because I do believe that if we continue this effort that we can really cripple Al Qaeda as a threat to this country," Panetta said during his first trip to Afghanistan in his new role. "I'm convinced that we're within reach of strategically defeating Al Qaeda."²

Panetta's appraisal was no off-the-cuff observation. Senior

officials from the CIA and other agencies had been delivering the same analysis in classified reports and secret briefings to Congress, *The Washington Post* reported.³

But Michael E. Leiter, the recently resigned director of the National Counterterrorism Center, made clear that he didn't share that consensus view. Leiter warned in late July against underestimating Al Qaeda's resilience. "The core organization is still there and could launch some attacks," Leiter said. He pointed to the continuing danger posed by jihadists in Pakistan and cited an attempt to detonate a car bomb in Times Square last year — a plot carried out by a Pakistani-American who had been trained by Pakistan-based Taliban operatives.⁴

The idea that Al Qaeda is on the verge of defeat lacks "accuracy and precision," Leiter said. "The American people do need to understand that at least the smaller-scale terrorist attacks are with us for the foreseeable future," he said.⁵

Leiter's remarks stood as the most forthright response to Panetta's assessment. But in a separate interview in *The New York Times*, Seth G. Jones, a senior political scientist at the RAND Corporation think tank who until February worked on Afghanistan and Pakistan issues for the U.S. Special Operations Command, also questioned the idea that Al Qaeda is near defeat in Pakistan. "Central Al Qaeda and a mix of other groups

other states, Louisiana and Tennessee, in enacting anti-Shariah laws being pushed by two anti-Islamist organizations: ACT!, headquartered in Pensacola, Fla., and the Washington-based Center for Security Policy. Both organizations feature warnings that followers of "radical Islam" pose a threat to the United States through what the ACT! site calls "stealth jihad" to promote what the center's site calls "the supremacy of shariah worldwide."¹⁸

For now, Oklahoma's measure is on hold after a federal judge in Oklahoma City found it likely unconstitutional. Judge Vicki Miles-LaGrange issued a preliminary injunction to block the measure after finding that it could reasonably be viewed as "specifically singling out Shariah law, conveying a message of disapproval of the plaintiff's faith." The suit was filed by Muneer Awad, executive director of

the state affiliate of the Council on American-Islamic Relations.¹⁹

A leading U.S. academic expert on Islam mocks the Oklahoma measure as "so unrealistic as to be ridiculous." John Voll, a professor of Islamic history and associate director of the Prince Alwaleed bin Talal Center for Muslim-Christian Understanding at Georgetown University in Washington, D.C., says that for "the very small minority" of U.S. Muslims who want to impose Shariah law in the United States, "going to the Oklahoma legislature [to seek Shariah law] is probably the farthest thing from their mind." In the federal court hearing, the state's lawyer defending the measure said he knew of no case in Oklahoma in which Shariah had been invoked.

Yerushalmi with the Center for Security Policy counters by pointing to the invocation of Shariah as the "mo-

tivating doctrine" of anti-Western jihadists both in the United States and around the world. "They will tell you it's Shariah," Yerushalmi says. "They're doing it as a legal mandate."

Yerushalmi used financing from the center — which is headed by Frank Gaffney, a hawkish defense expert who served in the Pentagon during the Reagan administration — to conduct a survey of literature taught in 100 mosques throughout the United States. The study claims that "violence-positive" Islamic materials are taught in 82 percent of the mosques and are most in evidence at mosques that follow Shariah-based rules such as segregation of men and women during worship.²⁰

Muslim leaders criticize the study and the underlying view of Shariah held by the anti-Shariah activists. Al-Marayati of the Muslim Public Affairs Council says passages in Islamic literature extolling

in Pakistan, Yemen and Somalia are capable of pulling off an attack in the U.S. homeland," he said.⁶

Other, more nuanced — and anonymous — reactions to Panetta's remarks came from officials who spoke to *The Washington Post*.

"We can even see the end of Al Qaeda as the global, borderless, united jihad," one said. "What that doesn't mean is an end to terrorists and people targeting the United States."⁷

A senior counterterrorism specialist largely agreed with Panetta but disputed his choice of words. "I'm not sure I would have chosen 'strategic defeat,'" he said. "But if you mean that we have rendered them largely incapable of catastrophic attacks against the homeland, then I think Panetta is exactly right."⁸

Yet that official hedged his appraisal. "Terrorist organizations, even more than enemy armies, are capable of reconstituting," the official said. "The thing we absolutely don't want to do is hang out another 'Mission Accomplished' sign."⁹

Others seem less troubled at the possibility that officials are making premature victory declarations. Sen. Saxby Chambliss of Georgia, the top Republican on the Senate Intelligence Committee, told the *Post* that although the Al Qaeda satellite group Al Qaeda in the Arabian Peninsula is "nowhere near defeat," Al Qaeda's main Pakistan nerve center has been battered to the point that its total defeat is a realistic prospect.¹⁰

Overall, Chambliss said, "There is a swagger within the [intelligence] community right now for good reason."¹¹

— Peter Katel

¹ Jenny Wilson, "Osama's Death Announced Eight Years After 'Mission Accomplished' Speech," *Time.com*, May 3, 2011, <http://newsfeed.time.com/2011/05/03/osamas-death-announced-exactly-eight-years-after-mission-accomplished-speech/>.

² Quoted in Craig Whitlock, "Panetta eager to seize chance to defang al-Qaeda," *The Washington Post*, July 10, 2011, p. A7. For the official transcript of Panetta's remarks, "Media Availability with Secretary Panetta en route to Afghanistan," Department of Defense, July 8, 2011, www.defense.gov/transcripts/transcript.aspx?transcriptid=4849.

³ Greg Miller, "Officials: Al-Qaeda close to collapse," *The Washington Post*, July 27, 2011, p. A1.

⁴ Quoted in Eric Schmitt, "Ex-Counterterrorism Aide Warns Against Complacency on Al Qaeda," *The New York Times*, July 29, 2011, p. A8; for a video of Leiter's remarks, "Counterterrorism: Past, Present, and Future with Michael Leiter," Aspen Security Forum, July 28, 2011, www.aspeninstitute.org/video/counterterrorism-past-present-future-michael-leiter; Mark Mazzetti, et al., "Suspect, Charged, Said to Admit Role in Plot," *The New York Times*, May 4, 2010, www.nytimes.com/2010/05/05/nyregion/05bomb.html.

⁵ Quoted in Schmitt, *op. cit.*

⁶ Quoted in *ibid.*

⁷ Quoted in Miller, *op. cit.*

⁸ Quoted in *ibid.*

⁹ Quoted in *ibid.*

¹⁰ Quoted in *ibid.*

¹¹ *Ibid.*

violence against non-believers are from historical periods of military confrontation. "That is not to be equated with principles of the Quran," he says. "All that Shariah means is God's will for mercy and compassion," Al-Marayati adds. "That's all it means."

Voll agrees. "The goal of Shariah is not chopping off hands," he says. "The goal of Shariah is a just society."

The anti-Shariah movement comes after a difficult decade for Muslims in the United States since the 9/11 attacks. Muslim organizations spoke out against the roundup of Arab and Muslim immigrants in the first months after Sept. 11. Muslim organizations were also the plaintiffs in the first court challenge against the Patriot Act, filed by ACLU lawyers in July 2003 in federal court in Michigan.

Muslim organizations continue to criticize what they regard as religious or ethnic profiling in anti-terrorism sur-

veillance and investigations. Civil liberties groups second the complaints. "There are growing accounts of FBI conducting surveillance in mosques and other places of worship without any evidence of wrongdoing," says the ACLU's Shamsi. "That alienates the community from the government and from law enforcement."

The Breakthrough Institute report also argues that profiling directed at Muslim communities will hurt counterterrorism initiatives. "By treating populations with suspicion," the institute's report says, "the state may be discouraging cooperation and even reinforcing terrorist narratives and recruitment efforts."

But former federal prosecutor McCarthy says the complaints about profiling are unwarranted and unhelpful. "Profiling is just a way that law enforcement people and intelligence people organize their suspicions so that they can target

limited resources at people who are the most likely source of the problem," he says. "The fact that [civil liberties critics] have succeeded in convincing people that we can't profile . . . has made everybody into a suspect."

In McCarthy's view, the government "goes overboard to be solicitous of the Muslim community." He faults Muslims for failing to speak out more forcefully against anti-American elements within the community. "There's a real fear on the part of ordinary Muslims to protest a lot of the things," he says.

Muslim leaders disagree. "Al Qaeda is on the demise because Muslim Americans prevented the ideology of Al Qaeda from penetrating the mosques in America," says Al-Marayati. A Gallup Poll released in August showed that 92 percent of Muslims surveyed believe American Muslims do not sympathize with Al Qaeda.²¹ ■

Chronology: *Terrorism Abroad*

2001-2004

U.S. goes to war in Afghanistan, Iraq.

2001

Al Qaeda hijackers attack U.S. (Sept. 11). . . . U.S. launches war against Afghanistan for aiding, harboring terrorists (Oct. 7). . . . Kabul falls (Nov. 13). . . . Hamid Karzai chosen to lead interim government (Dec. 5).

2002

President Bush confronts Iraq over weapons inspections; House, Senate authorize U.S. military action (Oct. 10, 16).

2003

U.S.-led coalition launches war against Iraq (March 19-20). . . . Baghdad falls (April 9). . . . Bush declares end to major combat operations (May 1).

2004

Afghans approve new constitution (Jan. 4). . . . Al Qaeda-linked bombings in Madrid (March 11). . . . Karzai elected president in Afghanistan (Oct. 9).

2005-2008

Political turmoil, insurgencies continue in Afghanistan, Iraq.

2005

Al Qaeda-linked bombings in London (July 7). . . . Iraq parliamentary elections: Shiite party wins plurality (Dec. 15).

2006

Shiite-Sunni violence escalates in Iraq. . . . Taliban insurgency in Afghanistan.

2007

Bush announces "surge" in Iraq (Jan. 10).

2008

U.S. combat deaths increase in Afghanistan. . . . Violence decreases in Iraq; U.S.-Iraq accord requires complete U.S. military withdrawal by end of 2011 (Nov. 20). . . . Attacks on Mumbai by militant Pakistani group (Nov. 26-29).

2009-2011

President Obama moves to wind down U.S. role in Iraq, Afghanistan.

2009

Obama strategic review of Afghanistan culminates in 30,000-troop increase, to be followed by start of withdrawal in 2011 (March 27). . . . Karzai re-elected in tainted election (Aug. 23).

2010

U.S. increases drone strikes against Taliban, Al Qaeda leaders in Pakistan. . . . Iraqi parliamentary elections end with two-vote margin between top electoral alliances (March 7). . . . Karzai proposes three-year drawdown for U.S., allied troops (July 20).

2011

U.S., Iraq consider extending U.S. military presence past 2011 . . . Al Qaeda leader Osama bin Laden killed in Pakistan (May 11). . . . Obama sets plan to withdraw 33,000 troops from Afghanistan in summer 2012 (June 23). . . . Al Qaeda second-in-command killed in CIA drone strike in Pakistan (Aug. 21). . . . U.S. combat deaths in Iraq, 4,474; Afghanistan, 1,752.

BACKGROUND

A Nation at War

The Al Qaeda hijackers who took down the World Trade Center towers, rammed the Pentagon and perished in a fiery crash in rural Pennsylvania killed 2,977 people and shook the United States to its core. Within days, President Bush and Congress began leading a unified nation into a "war against terrorism," with battlefronts at home and abroad. Ten years later, Americans are sharply divided about the continuing conflicts abroad, and some are uneasy about the effects of counterterrorism policies at home.²²

Al Qaeda and its leader, bin Laden, were immediately suspected of directing the hijackings, and Afghanistan's Taliban government was blamed for sheltering the terrorist group. Quickly, Congress approved and Bush on Sept. 18 signed into law a resolution — the Authorization for Use of Military Force — granting the president authority to use force against any "nations, organizations, or persons" involved in the hijackings or that "harbored" those responsible. Bush launched U.S. air strikes in Afghanistan beginning on Oct. 7. By early December, the Taliban had been ousted and the Western-leaning Hamid Karzai chosen as the country's interim leader.

Meanwhile, the administration had won congressional approval of the Patriot Act with an array of new powers aimed at ferreting out terrorists for prosecution. Congress modified the administration's original proposal somewhat in response to civil liberties concerns before approving the bill by votes of a 98-1 in the Senate and 357-66 in the House. Bush signed it into law on Oct. 26. News accounts focused on the expanded authority for the government to detain immigrants, conduct wiretaps and share information

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Chronology: *Terrorism at Home*

2001-2004

Sept. 11 attacks kill thousands, stun nation; President George W. Bush declares “war on terror;” Congress responds.

September 2001

Al Qaeda hijackings kill 2,977 in New York City, at the Pentagon and in rural Pennsylvania (Sept. 11). . . . Congress approves Authorization to Use Military Force against Al Qaeda, Afghanistan (Sept. 18). . . . Anthrax scare: first letter postmarked (Sept. 18). . . . Office of Homeland Security created (Sept. 20). . . . Congress creates September 11 Victim Compensation Fund (Sept. 22).

October-December 2001

Roundup of Arab, Muslim immigrants. . . . Bush authorizes Terrorist Surveillance Program (Oct. 4). . . . USA Patriot Act signed: new anti-terrorism powers, penalties (Oct. 26). . . . Bush signs executive order for military tribunals for “enemy combatants” (Nov. 13). . . . Transportation Security Administration (TSA) created (Nov. 26). . . . “Shoe bomber” Richard Reid arrested after failed aircraft bombing (Dec. 22).

2002

First prisoners arrive at Guantánamo Bay Naval Base, Cuba (Jan. 11). . . . José Padilla arrested at Chicago airport, charged with plot to make “dirty bomb” (May 8). . . . Justice Department memo approves “enhanced interrogation techniques” (Aug. 1). . . . Department of Homeland Security created (Nov. 25). . . . 9/11 Commission established (Nov. 27).

2003

Alleged 9/11 mastermind Khalid Sheikh Mohammed (KSM) captured in Pakistan (March 1).

2004

Supreme Court requires hearing for citizens charged as enemy combatants; second ruling ensures review for Guantánamo detainees (June 28). . . . 9/11 Commission report faults intelligence failures under Clinton, Bush; calls for intelligence overhaul, other reforms (July 22). . . . Director of National Intelligence created (Dec. 17).

2005-2008

Americans divided on “war on terror.”

2005

9/11 Commission gives poor grades to Congress, administration on reforms (Dec. 2).

2006

Patriot Act renewed, with some changes (March 9). . . . Supreme Court ruling forces Congress, president to rewrite military commissions law (June 29). . . . Military Commissions Act overhauls procedures, still bars judicial review (Oct. 26).

2008

Supreme Court requires habeas corpus review for Guantánamo detainees (June 12). . . . Foreign intelligence overhaul sanctions expanded electronic surveillance (July 8). . . . First conviction in military commissions: ex-chauffeur for Osama bin Laden given minimal sentence on lesser charge (Aug. 6-7). . . . Pentagon Memorial dedicated (Sept. 11). . . . Barack Obama elected president after campaign critical of Bush “war on terror” policies.

2009-2011

President Obama recalibrates counterterrorism policies.

2009

Obama sets one-year deadline to close Guantánamo; suspends military tribunals; orders secret CIA prisons closed; nullifies Justice Department memos authorizing harsh interrogation techniques (Jan. 22). . . . Obama says some detainees to be held indefinitely without trial (May 21). . . . Army private killed in shooting outside recruiting center in Little Rock, Ark.; shooter is Muslim with Islamist views (June 1). . . . Military commissions overhauled (Oct. 28). . . . Massacre at Fort Hood, Texas: 13 killed in shootings by Army psychiatrist influenced by radical Islamist views (Nov. 5). . . . Attorney General Eric Holder’s plan to try KSM in federal court in New York provokes protests (Nov. 13). . . . “Underwear bomber” Umar Farouk Abdulmutallab arrested after failed aircraft bombing (Dec. 25).

2010

Failed car bomb attempt in New York City’s Times Square (May 1). . . . House, Senate votes move bill to bar civilian trials for Guantánamo detainees (Dec. 17, 22).

2011

New 9/11 victim compensation law signed (Jan. 2). . . . Homeland Security drops color-coded terror alert system (Jan 27). . . . Holder acquiesces, refers KSM for military trial (April 4). . . . Patriot Act renewed with few changes (May 26). . . . Dedication ceremonies set for Flight 93 Memorial (Sept. 10), 9/11 Memorial at Ground Zero (Sept. 11). . . . New military prosecutor to assume Guantánamo post; move may speed KSM trial (Oct. 1).

Victims' Compensation Poses Fairness Issues

New fund extends eligibility period for claims.

Demolition expert John Feal arrived at Ground Zero in New York City on Sept. 12, but five days later 8,000 pounds of steel smashed his left foot, leading to amputation.

"When the steel hit, blood came gushing six feet into the air," he recalls. But it was the tangle of red tape over compensation for the injury that he says really stung. "There's not a fight I can't win," Feal says. "But I found it appalling that I was forced to fight for my benefits."

After nearly a year, Feal received \$52,000 in workers' compensation, but he was denied time and again by insurance companies as well as by a 9/11 fund set up by the federal government. He was so upset by the experience that he created his own nonprofit — the FealGood Foundation — to provide legal aid and advocacy for first responders and families of victims trying to navigate the compensation bureaucracy.

"None of these brave men and women should have to go through it alone," Feal says.

Feal also helped push for passage of the James R. Zadroga 9/11 Health and Compensation Act, named for a police officer who died of a respiratory disease attributed to his Ground Zero rescue efforts.

The law reopens and adds \$2.8 billion to the September 11th Victim Compensation Fund, which existed between 2001 and 2003 and was initially funded for \$7 billion.

President Barack Obama signed the Zadroga Act on Jan. 2, 2011, following a partisan, seven-year battle in Congress. "This legislation as written creates a huge . . . slush fund paid by taxpayers that is open to abuse, fraud and waste," Rep. Lamar Smith, R-Texas, argued last year in a bid to block the measure.¹

The new fund will open in October and accept claims through 2017. The Obama administration named New York attorney Sheila L. Birnbaum, who previously mediated lawsuits filed by 9/11 families, to head the fund. "My first priority will be to sit down with the people who will be most affected by

the program and see how we can design a program that is fair, transparent and easy to navigate," she said.²

The original Victim Compensation Fund compensated victims who were near the plane crashes — or the families of deceased victims — if they suffered physical harm within 12 hours of the events. Emergency responders who were harmed in the rescue efforts and debris removal were eligible for compensation only if they sustained injuries at the sites within 96 hours of the attacks. That provision left Feal a little more than one day out of the compensation window.

The revamped fund will now extend the eligibility period in which responders and victims had to be at any of the three sites — as well as the Fresh Kills Landfill in Staten Island where crash debris was taken and sorted — to May 2002. It includes compensation for conditions assumed to be linked to the aftermath of the attacks, such as lung disease, carpal tunnel syndrome and asthma, which may not have been discovered until much later. Claimants must substantiate their illnesses through a medical professional.

The new fund requires those who accept compensation to waive their rights to sue others for their injuries. In 2009, Birnbaum mediated a \$500 million settlement for 92 families who decided to forgo the fund and pursue litigation against the airlines and security companies.

Still, the new fund has critics, including Feal, who lobbied for the Zadroga Act with some 90 trips to Washington over six years. For one thing, Feal argues the fund could use an additional \$4 billion and should remain open for 15 to 20 years to cover 9/11-related diseases that arise in the future.

Critics also complain that while, in the case of the World Trade Center, the new fund expands the geographic area of eligibility from Ground Zero to a broader swath of lower Manhattan, it does not cover people who may have breathed toxic dust in neighboring New Jersey less than a mile away.

Joann Sullivan says she inhaled contaminants and contracted

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among intelligence and law-enforcement agencies. Terrorism-related crimes were also broadened. The Justice Department vowed to use the new powers aggressively, while the ACLU warned of possible misuse.

With the nation still reeling from the 9/11 hijackings, a new and perplexing terrorist episode emerged. Anonymous letters containing deadly anthrax spores — the first postmarked Sept. 18 — were sent to several news

organizations and two U.S. senators. Five people were killed and 17 others infected. Congressional officials decided to divert mail to an off-site facility for screening before delivery. Many patrons requested that letters for home delivery be deposited outside their houses as a precaution. Al Qaeda was suspected, but evidence remained elusive. Years later, the government concluded that the letters were sent by Bruce Ivins, a biodefense researcher who committed suicide in 2008 while under suspicion.²³

Bush had proceeded in the meantime to put the government on a war-on-terror footing. In an address to Congress on Sept. 20, he announced creation of a Cabinet-level Office of Homeland Security — precursor of the Department of Homeland Security — to coordinate domestic anti-terrorism defense. Two months later, Bush on Nov. 26 signed into law an aviation-security measure creating the Transportation Security Administration (TSA) and setting in motion the federalization of airport

a rare inflammatory lung condition as she aided fleeing survivors while working in a Jersey City bar. "I got the dust from hugging and kissing everyone getting off the boat," said Sullivan, who now finds it difficult to work.³

Others also complain the fund will not pay claimants who say they developed cancer from exposure to 9/11 contaminants. The National Institute for Occupational Safety and Health found too little scientific evidence linking the disease to time spent amid the dust and wreckage.

"This is an injustice. We're left out in the cold," said NYPD Det. John Marshall, a first responder who said he developed throat cancer from Ground Zero dust.⁴

As new claimants await the fund's implementation in October, policy researchers are assessing 9/11 compensation practices and looking ahead to future disasters.

The RAND Corporation, a think tank in Santa Monica, Calif., found in 2004 that a total of nearly \$9 billion had been paid to 9/11 victims and their families. Most of the payments went to World Trade Center victims from the first Victim Compensation Fund, but insurance companies, employers and charities also paid benefits. Emergency responders received about \$2 billion of the total, mostly from the federal, state and local governments.⁵

RAND noted that the Victim Compensation Fund tended to pay more to families of higher-income victims to account for the loss of a victim's lifetime earnings potential.

"The process has created doubts over the fairness of the system," says RAND economist Lloyd Dixon. Still, he says, it remains unclear whether paying all victims and families equal-



Getty Images/Brendan Smialowski

John Feal calls for stronger benefits for first responders and other victims of the 9/11 attacks at the Capitol in Washington on June 29, 2010, accompanied by U.S. Rep. Carolyn Maloney, D-N.Y. Feal lost a foot while doing demolition work at Ground Zero.

ly would be fairer.

In future disasters, Dixon argues, the government should coordinate aid among charities and government funds to guard against overlaps. He also says regulations on disaster compensation should be part of a broader national security strategy.

"Getting money distributed quickly and efficiently after an attack can have a positive effect on the rebuilding process

and minimize the chaotic ripple effects of the attack," he says.

Feal has a similar view. "Any compensation is unlikely to cure any illnesses, and it won't bring anybody back," he says. "But we can make sure that families are not stuck with hundreds of thousands of dollars in medical bills and that the heroes that risked their lives that day are free from any financial burden they don't deserve."

— **Darrell Dela Rosa**

¹ Michael McAuliff, "Congress Rejects Zadroga 9/11 Health and Compensation Act as GOP Members Balk at Bill," *New York Daily News*, July 29, 2010, articles.nydailynews.com/2010-07-29/news/27071234_1_slush-fund-gop-members-tax-hike.

² "Attorney General Holder Names Sheila L. Birnbaum as Special Master of September 11th Victim Compensation Fund," U.S. Department of Justice, May 18, 2011, www.justice.gov/opa/pr/2011/May/11-ag-637.html.

³ Terence T. McDonald, "Jersey City Hosts Session on 9/11 Victim Compensation Fund at City Hall," *The Jersey Journal*, July 29, 2011, www.nj.com/jjournal-news/index.ssf/2011/07/jersey_city_hosts_session_on_9.html.

⁴ Karen Zraick, "First Responders Angry 9/11 Victim Compensation Fund Doesn't Help Those With Cancer," *Huffington Post*, July 28, 2011, www.huffingtonpost.com/2011/07/28/first-responders-angry-91_n_911852.html.

⁵ Lloyd Dixon and Rachel Kaganoff Stern, "Compensation for Losses From the 9/11 Attacks," RAND Corporation, 2004, www.rand.org/content/dam/rand/pubs/monographs/2004/RAND_MG264.pdf.

screeners and the institutionalization of the pre-flight inspections now so familiar to air travelers.

The government's aggressive moves began to draw criticism from civil liberties groups, among others. Through November, the FBI and immigration authorities had detained more than 1,000 foreigners — young men of Arab or Muslim background — in a hunt for Al Qaeda members or connections. The roundup produced hundreds of immigration violations but few crimi-

nal charges, almost none terrorism-related. Civil liberties and immigrant rights groups criticized the roundup as racial and religious profiling, while some law enforcement experts questioned its effectiveness.

Bush was also drawing fire for his decision in an order signed on Nov. 13 to create special military tribunals to try suspected terrorists whether apprehended abroad or in the United States. The order purported to bar any oversight by any

other court, national or international. Behind the scenes, the administration was deciding to house the suspects rounded up in Afghanistan at the Guantánamo Bay naval base in Cuba, a site thought to be outside the jurisdiction of federal courts. By January, the first of several hundred detainees were being brought to Guantánamo, setting the stage for legal challenges and political debates that continue a decade later.

Barely three months after 9/11, the

nation was jolted by news of a foiled attempt to blow up a commercial airliner bound for the United States. Reid, a British citizen and admitted Al Qaeda operative, was subdued by passengers as he attempted to detonate explosives hidden in a shoe while on an American Airlines flight bound for Miami from Paris on Dec. 22. With no debate over the legal forum, Reid was arrested and indicted in federal court, where he pleaded guilty in October 2002 and was sentenced to a life term that he is now serving.

Abroad, the administration was shifting its focus from Afghanistan to Iraq, with an avowed goal of ousting the country's long-serving dictator, Saddam Hussein. Diplomatic moves and political debates extending for more than a year culminated in the decision to go to war on March 19-20, 2003. Baghdad fell barely three weeks later, but Bush's "mission accomplished" speech — delivered aboard the aircraft carrier *USS Abraham Lincoln* on May 1 — exposed him to sharp criticism as the fighting and political turmoil in Iraq dragged on.

As he prepared to stand for reelection, Bush also suffered the first two of four rebuffs from the Supreme Court in June 2004 for his aggressive legal strategy for dealing with so-called enemy combatants. The court ruled in one case that U.S. citizens held as suspected terrorists could not be detained only on the president's say-so, but were entitled to a hearing before some "neutral decision-maker." In a second decision, the court held that the hundreds of detainees held at Guantánamo could file habeas corpus petitions in federal court to seek their release.²⁴

The Homeland Secured?

The Bush administration marked the fifth anniversary of the 9/11 attacks in 2006 with solemn presidential visits

to the three crash sites and high-level pledges of the government's continued vigilance against terrorism at home. Americans appeared to accept the government's assurances that the country was safer, if not completely safe, even as controversies swirled about the administration's counterterrorism policies. Americans were divided as well about the war in Iraq and Bush's insistence on treating it as an essential battlefield in the global war against terrorism.²⁵

Major terrorist attacks outside the United States prevented Americans from becoming overconfident about the country's safety. Bombings of commuter trains in Madrid on March 11, 2004, killed 191 people and injured 1,800; the bombings were connected to an Al Qaeda-inspired terrorist cell. Suicide bombings of three subway trains and a bus in London on July 7, 2005, killed 52 people and injured more than 700; in a videotaped statement, one of the bombers, a Muslim of Pakistani descent, blamed unnamed governments for committing "atrocities against my people around the world." Three years later, members of a Pakistan-based Islamist organization conducted a series of elaborate attacks in the Indian city of Mumbai over a three-day period, Nov. 26-29, 2008; in all, 174 people, including nine gunmen, were killed.²⁶

In the United States, however, law enforcement counted successes in foiling a dozen or more terrorist plots through Bush's eight years in office.²⁷ José Padilla, a U.S. citizen, was apprehended at Chicago's O'Hare International Airport on May 8, 2002, as he returned from Pakistan and accused of planning to build a "dirty bomb." His was one of the cases ruled on by the Supreme Court in 2004 on procedures for accused enemy combatants.²⁸ Some cases were brought against groups of suspected terrorists: the Lackawanna Six (September 2002) and the Virginia Jihad Network (June 2003). They were charged not with plotting specific attacks but with pro-

viding "material support" to terrorism. Other arrests uncovered seemingly well-developed conspiracies: plots against the Brooklyn Bridge (March 2003), New York Stock Exchange (August 2004), Chicago's Sears Tower (June 2006) and Fort Dix in New Jersey (May 2007).

Through September 2008, the Justice Department counted 593 terrorism-related cases in federal courts, with convictions through trials or guilty pleas in 523. Prosecutions in some of the cases netted long prison terms. Four of the six men accused in the Fort Dix plot were given life sentences; the two New York subway plotters drew 30-year prison terms. Some of the cases, however, appeared to be less substantial than initially thought. Members of the Lackawanna Six, arrested in Buffalo after having attended an Al Qaeda training camp in Afghanistan before 9/11, later said they had been appalled by a video of Al Qaeda's attack on the *USS Cole* in Yemen; in exchange for cooperation with the government, they received prison sentences of 10 years or less.

Some critics found the Justice Department's count somewhat padded, but federal courts were accepted without question as effective venues for terrorism cases. Meanwhile, the military trials planned for Guantánamo were stalled by legal and political wrangling. Padilla's case was diverted from the military tribunals into federal court, where he was tried and convicted in 2007 and given a 17-year prison sentence in January 2008. The Supreme Court in June 2006 effectively forced the administration and Congress to rewrite the rules for the military trials. The new law, the Military Commissions Act of 2006, again sought to bar habeas corpus review for Guantánamo detainees, but the Supreme Court ruled in June 2008 that the prisoners were constitutionally entitled to judicial review of the government's grounds for holding them. Finally, in August 2008, the military commissions produced their first

conviction. Salim Ahmed Hamdan, a Yemeni accused of serving as bin Laden's chauffeur, was convicted of the lesser of two charges and given a 66-month sentence, reduced by time served to five-and-a-half months.²⁹

In Washington, the war on terrorism remained at the top of the policymaking agenda for the administration and Congress throughout Bush's presidency. In a mammoth report in July 2004, the congressionally mandated 9/11 Commission (formally, the National Commission on Terrorist Attacks upon the United States) recommended dozens of steps to improve the government's counterterrorism capacity. One major change implemented by year's end was the creation of the new post of director of national intelligence, tasked with better coordinating the work of and information-sharing between the CIA and the other agencies in the intelligence community. Other steps adopted included the creation of terrorism watch-lists and additional travel security improvements, strengthened money-laundering enforcement and more secure passports and other identification documents.

Despite those changes, the 9/11 Commission one year later severely faulted the response by both the administration and Congress. In a "report card" issued in December 2005, the commission gave out only one A- (for moves against terrorism financing); out of the other 40 grades, 24 were Cs, Ds or Fs.³⁰

Congress renewed the Patriot Act in March 2006, but only after civil liberties-minded lawmakers forced the administration and the Republican-controlled chambers to accept some changes. Lawmakers debated the bill as the administration was facing intense criticism on other fronts. *The Washington Post* had disclosed in November 2005 the use of harsh interrogation techniques, including waterboarding, against some high-value terrorism suspects captured and held abroad. The



CQ Press/Kenneth Jost (both)

Firefighters' Memorial

A photo display and bronze bas-relief memorialize the 343 members of the New York City Fire Department who died while fighting the infernos that destroyed the World Trade Center towers on Sept. 11, 2001. The memorials are on the outside wall of "Ten House," home of Engine Company 10 and Ladder Company 10 across the street from the WTC site. The firehouse, heavily damaged on 9/11, was reopened on Nov. 5, 2003, after a \$3.5 million renovation. The memorials were presented to the city by the Holland & Knight law firm. Glenn Winuk, a partner in the firm and volunteer firefighter and emergency medical technician, also died on 9/11. Winuk joined the rescue effort at the site and was killed when the south tower collapsed.

Rising From the Ashes of Tragedy

Emerging World Trade Center complex weighted with symbolism

New Yorkers who live or work around Ground Zero view the skyscrapers being built where the twin towers once stood as proof not only of American resolve against terrorism but also of the city's resilience in the face of financial loss.

"Lower Manhattan is here to work again," says Ben Huff, a student in urban planning at Columbia University who works for the New York City Economic Development Corp.

Silverstein Properties, the high-powered developer of four of the five skyscrapers planned for the site, enthuses that the complex "will mark a major milestone in the redevelopment of downtown New York." The centerpiece of the development, 1 World Trade Center (WTC), nearly two-thirds complete, will be the nation's tallest building when finished. It is expected to open in 2013.¹

With the 10th anniversary of the Sept. 11, 2001, attacks approaching, however, an op-ed columnist for *The New York Times* provocatively labeled the centerpiece of the redevelopment a "white elephant." Joe Nocera, a *Times* business columnist for six years before joining the newspaper's opinion section, complained that 1 World Trade Center "will add 2.6 million square feet of office space in a city that doesn't need it, at a cost so high that it will be a cash drain for decades to come."²

Rebuilding on the WTC site has been weighted with symbolism from the start. Gov. George Pataki, New York's Republican chief executive when construction began in 2006, gave the planned centerpiece the symbolic name "Freedom Tower." The antenna structure at the top of the 104-story building will evoke U.S. independence by rising to exactly 1,776 feet.

The man now in charge of the project ditched the name Freedom Tower in 2008, though it is still used by New Yorkers and on the Silverstein Properties website. "We were free before 9/11, we were free after 9/11," Christopher Ward declared after he was appointed in 2008 as executive director of the Port Authority of New York and New Jersey. "New Yorkers don't need a tower named 'freedom.' New Yorkers need to know that we built it, that there's a place to go and work."³

On its website, Silverstein boasts of the features that will make 1 WTC an "architectural landmark," from the 50-foot-tall public lobby to observation decks at the exact heights of the former twin towers: 1,362 and 1,368 feet. Safety features, beyond New York City code requirements, will create "a new standard for high-rise buildings," including a three-foot-thick concrete wall encasing all the building's safety systems. The building will also use "the latest green technologies, including renewable energy, interior daylighting, reuse of rainwater, and recycled construction debris and materials."

The financial fortunes of the complex remain to be seen, however. Only recently did 1 WTC gain an anchor tenant with the announcement by the giant magazine publisher Condé Nast that it would move 5,000 employees to the building in 2014.⁴

In all, the five skyscrapers are envisioned as providing 10 million square feet of office space in the southern end of what was once New York's financial district. A recent report notes that government agencies now employ more people in lower Manhattan than the financial industry.⁵

In his column, Nocera claimed that Condé Nast's rent would be less than half the break-even cost and end up being sub-

next month, *The New York Times* disclosed the warrantless electronic surveillance program that Bush had personally approved soon after 9/11. Congress effectively prohibited the use of the so-called enhanced interrogation techniques in the Detainee Treatment Act of 2005, passed in December, but issues about the use of evidence obtained were to cloud future prosecutions.

By the time of the 2008 presidential campaign, Bush's anti-terrorism policies as well as the two protracted wars in Iraq and Afghanistan were useful wedge issues for Democratic hopefuls, including the eventual nominee, Obama. With his victory over Repub-

lican nominee John McCain, Obama appeared poised to significantly recalibrate the nation's war on terrorism, both at home and abroad.

War on Terror 2.0?

President Obama vowed in his inaugural address to "defeat" terror even as he signaled a change in approach by rejecting any need to choose "between our safety and our ideals." But Congress stymied his plans to close the Guantánamo prison camp as well as his attorney general's decision to try 9/11 conspirator Khalid Sheikh Mohammed in a civilian court. Abroad, Al

Qaeda's strength appeared to be waning — even before bin Laden's death — but the war in Afghanistan dragged on. And at home terrorist-type attacks or attempts by Islamist radicals, many of them American Muslims, stirred fears about the dangers posed by so-called homegrown jihadists.

Obama began boldly by signing executive orders on his second full day in office — Jan. 22, 2009 — that set a deadline to close Guantánamo within one year and barred the CIA from maintaining secret prisons. He also nullified legal opinions permitting enhanced interrogation techniques and suspended military commissions pending a review. "Bush's 'War' on

sized by toll increases on the Lincoln Tunnel and George Washington Bridge connecting New York with New Jersey.

Ward disputes Nocera's charges. In a letter to the editor published nine days later, Ward contended that the port authority's investment would be "cash-positive within several years (not decades)." And he blamed the recession for the port authority's recent request to raise commuter tolls.

"It is hard to know what Mr. Nocera would do differently at this stage," Ward wrote. "For five years after 9/11, very little happened. It was only after the Port Authority stepped in, with a strong public-private partnership, that the rebuilding became real, even with the admitted challenges along the way."⁶

— Kenneth Jost

¹ See World Trade Center, www.wtc.com/about/ (visited August 2011).

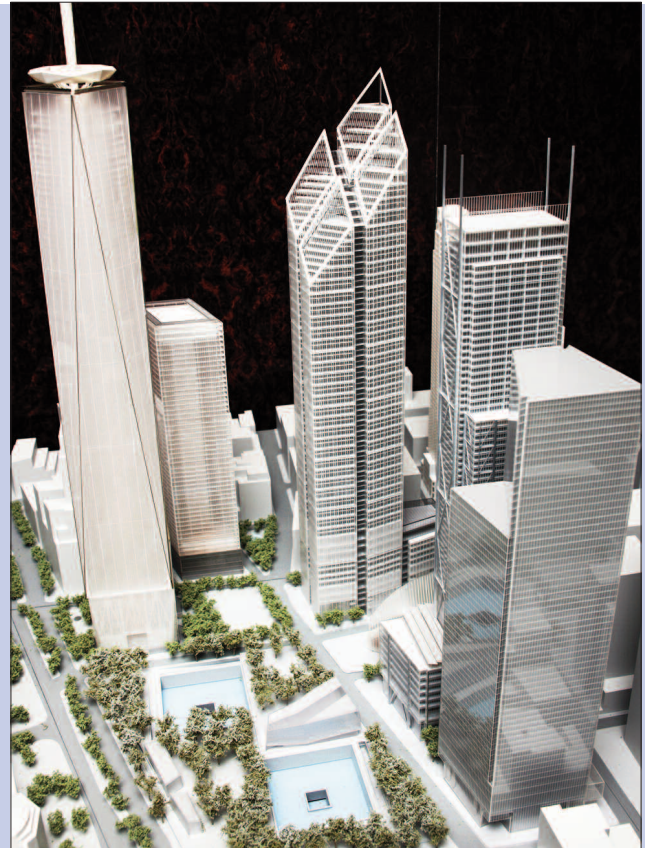
² Joe Nocera, "9/11's White Elephant," *The New York Times*, Aug. 20, 2011, www.nytimes.com/2011/08/20/opinion/nocera-911s-white-elephant.html. For a reply, see Christopher O. Ward, "Ground Zero Rebuilding," *ibid.*, Aug. 29, 2011, p. A22, www.nytimes.com/2011/08/29/opinion/ground-zero-rebuilding.html. Ward is executive director of the Port Authority of New York and New Jersey, which owns the site and is the developer for the fifth planned building.

³ Quoted in Jim Dwyer, "Returning Ground Zero to New Yorkers," *The New York Times*, Aug. 10, 2011, p. A17, www.nytimes.com/2011/08/10/nyregion/returning-ground-zero-to-new-yorkers.html. Some other background drawn from article.

⁴ Charles V. Bagli, "A Stylish Anchor for 1 World Trade Center," *The New York Times*, May 18, 2011, p. A14, www.nytimes.com/2011/05/18/nyregion/conde-nast-to-anchor-1-world-trade-center.html?pagewanted=all.

⁵ The study by the Alliance for Downtown New York is described in Patrick McGeehan, "Financial District Turning Governmental, Study Finds," *City Room, The New York Times Blogs*, Aug. 11, 2011, <http://cityroom.blogs.nytimes.com/2011/08/11/financial-district-turning-governmental-study-finds/>.

⁶ Ward, *op. cit.*



Silverstein Properties/Joe Woolhead

The new World Trade Center complex is planned as a combination of five skyscrapers totaling 10 million square feet of office space, plus the National September 11 Memorial and Museum, a major underground transportation hub, retail space and a performing arts center. Boosters view the project as a symbol of New York's resilience, but critics say the office space will far exceed demand.

Terror Comes to a Sudden End," *The Washington Post* proclaimed in a headline.³¹ Within a few months, however, Obama appeared to backtrack somewhat. In a May 21 speech, Obama outlined plans for the Guantánamo detainees that included holding some number indefinitely without trial.

The threat of domestic terrorism was brought home later that day with the arrest in New York City of four men in an alleged plot to bomb two synagogues in the northwest Bronx neighborhood of Riverdale. The suspects, U.S. citizens who had converted to Islam while in prison, were quoted as saying that they wanted to commit jihad in retaliation for the deaths of Muslims

in Afghanistan and Pakistan. But the case also highlighted concerns in the Muslim community and in other circles about law enforcement tactics. In their later trial, the men claimed they were entrapped by an FBI informant. A federal jury convicted all four on terrorism-related counts in October 2010, but Judge Colleen McMahon criticized the government's tactics in June 2011 in sentencing three of the men to 25-year terms instead of life imprisonment as prosecutors had asked. The fourth defendant is still awaiting sentence.

A succession of unconnected domestic terrorism cases through 2009, most involving U.S. citizens who had converted to Islam, helped keep Amer-

icans on edge and fueled what mainstream Muslim groups call Islamophobia. In June, an Arkansas man who claimed he had been sent by Al Qaeda shot and killed a U.S. Army private and wounded another outside a military recruiting center in Little Rock. Two plots were foiled in September: an Afghan was arrested in New York City and charged with preparing to bomb the city's subway system; an Illinois man was arrested after trying to bomb a federal building with, it turned out, fake explosives provided by an FBI informant. Then, in the deadliest incident, Maj. Nidal Malik Hasan, a U.S. Army psychiatrist, was charged in a shooting rampage at Fort Hood in

Texas on Nov. 5 that left 13 people dead and 30 others wounded.

Meanwhile, the Obama administration was working on plans to resume trials of Guantánamo prisoners after winning congressional approval of changes aimed at making the military commission system fairer. The changes, part of a defense authorization bill signed into law on Oct. 28, barred the use of coerced testimony, limited hearsay evidence and gave defendants better access to witnesses and documentary evidence. Two weeks later, Attorney General Eric Holder designated seven Guantánamo prisoners for trial before the revamped military tribunals.

The big story from Holder's Nov. 13 news conference, however, was his plan to prosecute Khalid Sheikh Mohammed (KSM), the alleged mastermind of the Sept. 11 attacks, in a federal court in New York City. The plan provoked protests from New Yorkers worried about security and from Republicans and national security-minded experts concerned about favorable procedural rights for KSM in a civilian court.

The controversy merged on Capitol Hill with opposition to Obama's plans for closing Guantánamo and moving any prisoners who could not be transferred to other countries to facilities within the United States. A full year of legislative maneuvering in 2010 finally resulted in a rider attached to the Pentagon's annual funding measure that barred transferring Guantánamo prisoners to the United States — and thus effectively blocked civilian trials for any of them. Obama criticized the provision as he signed the measure on Jan. 7, 2011. Holder also criticized it three months later as he acquiesced and referred KSM's case to a military commission.

In the meantime, however, two more defendants charged in foiled terrorist attempts were being prosecuted in federal courts. Abdulmutallab, a Nigerian and a graduate of an Al Qaeda training camp in Yemen, was arrested on Christmas Day 2009 after unsuccessfully

trying to blow up a civilian aircraft bound for Detroit by detonating explosives sewed into his underwear; he is awaiting trial now set for Oct. 4. And Faisal Shahzad, a naturalized U.S. citizen who received bomb-making instructions from a militant Islamic group in his native Pakistan, was sentenced to life in prison in October 2010 after having pleaded guilty to attempting to detonate a car bomb in New York City's Times Square the previous May.

With the 10-year anniversary of the Sept. 11 attacks approaching, the administration was continuing to adjust some of the security measures previously adopted. On Jan. 27, DHS Secretary Napolitano announced plans to drop the often-satirized system of color-coded terrorism threat levels first adopted in 2002. Under the new National Terrorist Advisory System, Napolitano said that DHS would issue alerts when warranted — categorized as either “elevated” or “imminent” — with specific information about the nature of the threat and recommended steps to be taken.³²

A few days later, TSA unveiled revised body-scanning software aimed at defusing privacy concerns about a system adopted in 2010 that displayed lifelike images of airplane passengers being screened. The new software, first tested in Las Vegas on Feb. 1 and now being phased in nationwide, marks the location of any objects detected on a generic human form.³³ ■

CURRENT SITUATION

Anti-Extremism Strategy

The Obama administration is planning to use community outreach similar to the approach used in anti-gang initiatives to combat efforts by

Al Qaeda and its affiliates to recruit supporters within the United States.

The strategy, unveiled with little fanfare by the White House on Aug. 4, is being praised by Muslim groups but is drawing mixed reaction from others, including the Republican lawmaker who chaired a controversial hearing on radicalization in Muslim communities in March.³⁴

The eight-page policy paper, entitled “Empowering Local Partners to Prevent Violent Extremism in the United States,” labels Al Qaeda as the nation’s “pre-eminent terrorist threat.” In contrast to the emphasis on broadened investigatory powers in the Bush administration’s war on terror, however, the Obama policy looks to families and communities, “especially Muslim American communities,” as “the best defenses against violent extremist ideologies.”

“Communities are best placed to recognize and confront the threat because violent extremists are targeting their children, families, and neighbors,” the paper states. “Rather than blame particular communities, it is essential that we find ways to help them protect themselves.”

Muslim groups are applauding the policy. “Programs that build trust between law enforcement authorities and the communities they serve are crucial to” combating violent extremists, Nihad Awad, executive director of the Council on American-Islamic Relations, said in a statement. Awad contrasted the approach with what he called “the type of collective guilt and community demonization” represented by hearings held on Islamic radicalization by the House Homeland Security Committee under the leadership of Rep. Peter King, R-N.Y.³⁵

King drew both applause and sharp criticism for comments before and during the March 10 hearing about what he called Muslim leaders’ unwillingness to confront the radicalization of Muslim youths or to cooperate with law

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At Issue:

Does Al Qaeda still pose a serious threat to the U.S.?



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WRITTEN FOR *CQ RESEARCHER*, SEPTEMBER 2011

the 9/11 Commission report concluded that terrorist groups require physical sanctuaries in order to execute catastrophic attacks. These sanctuaries give them “time, space and ability to perform competent planning,” and to prepare skilled operatives.

Al Qaeda enjoyed one sanctuary on Sept. 11, 2001, in Afghanistan. Today Al Qaeda affiliates enjoy four: in Somalia, Yemen, Pakistan, and northern Mali. The United States has no strategy to dislodge militants from these areas, which suggests it is too early to declare victory.

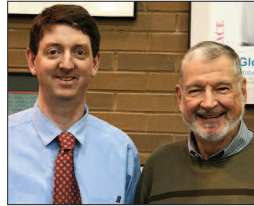
Beyond the threat of a catastrophic attack, Al Qaeda's strategy is working fairly well. The group sees the economy as America's key vulnerability, and the 2008 financial sector debacle made the U.S. seem mortal. In turn, the collapse produced an adaptation by jihadis: a turn toward smaller and more frequent attacks, many designed to drive up security costs.

Al Qaeda operatives placed three bombs on passenger planes in the past 21 months: Umar Farouk Abdulmutallab's underpants bomb in 2009, and bombs in ink cartridges in 2010. Though nobody was killed, Al Qaeda doesn't necessarily view those attacks as failures. Radical Yemeni-American preacher Anwar al-Awlaki said the ink cartridge plot created a dilemma. “You either spend billions to inspect each and every package,” he wrote, “or you do nothing and we keep trying.” As Awlaki expressed, even this “failed plot” drove up costs for the group's enemies.

Current levels of security spending are unsustainable, our defenses inefficient. We are moving into an age of austerity, and simply slashing security expenditures will make successful attacks more likely if officials can't find ways to do more with less.

There is reason to be skeptical of current proclamations from the intelligence community that Al Qaeda is on “the brink of collapse.” Nor has the Arab Spring killed Al Qaeda. Though the anti-regime uprisings have not been fundamentalist, Al Qaeda likely foresees a more fertile recruiting environment due to them. The Arab Spring is not just about a desire for democracy, but also unemployment and skyrocketing food prices. Unemployment in Egypt has risen since Hosni Mubarak was overthrown, and Arab states' economies will probably worsen. Historically, when sky-high expectations go unfulfilled, extreme ideologies can fill the void.

Concluding that Al Qaeda poses no threat is unrealistic at best. At worst, operationalizing such an idea could leave the U.S. in greater danger.



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WRITTEN FOR *CQ RESEARCHER*, SEPTEMBER 2011

recalls former New York Mayor Rudy Giuliani, “Anybody — any one of these security experts, including myself — would have told you on Sept. 11, 2001, that we're looking at dozens and dozens and multiyears of attacks like this.” And intelligence agencies soberly estimated there to be as many as 5,000 Al Qaeda operatives loose in the country.

Had these claims and anxieties proved to be valid, Al Qaeda might have justifiably been held to pose a serious threat to the United States. But, as Giuliani added in cosmic understatement, “It hasn't been quite that bad.”

No true Al Qaeda cell has been uncovered in the country after a decade of intense sleuthing, and scarcely anyone has been found who even has a “link” to the diabolical entity. Indeed, the vast majority of the mostly pathetic people picked up on terrorism charges do not seem likely to have presented much of a threat at all. Over the decade, only 14 Americans were killed in the United States by Muslim extremists, just one of them a civilian, and the likelihood an American will be killed in the country by terrorism of any ilk is 1 in 3.5 million per year. The 9/11 attack stands as an aberration, not a harbinger.

Outside of war zones, the number of people worldwide killed since 9/11 by Muslim extremists comes to some 200 to 400 per year. That, of course, is 200 to 400 per year too many, but it hardly suggests that the perpetrators present a major threat to just about anything: more people drown in bathtubs in the U.S. alone.

Nonetheless, creative fear-mongers, including some in the Obama administration, continue to hype the threat not only as “serious” but as “existential.” Although terrorism, like crime, will always be with us, such characterizations would begin to be justified only if the terrorists manage to assemble a nuclear arsenal or if the United States massively overreacts to any new attacks.

Al Qaeda's entire weapons of mass destruction budget when it was disrupted in Afghanistan was \$2,000-\$4,000, and evidence uncovered in Osama bin Laden's lair when he was killed seems to demonstrate that the group was cash-strapped and primarily occupied with dodging explosives delivered by drone.

Thus any threat to the U.S. presented by Al Qaeda arises not so much from what the miserable little group would do to America, but what Americans would do to themselves in response.

Continued from p. 722

enforcement in anti-terrorist efforts. Reacting to the White House policy paper, King said he approved of meeting with Muslim community leaders but warned against the sessions' becoming "politically correct, feel-good encounters, which ignore the threats posed by dangerous individuals in the community."³⁶

The White House policy paper calls for engaging with communities on their full range of interests instead of "around national security issues alone." It looks to enlisting school truancy officers and prison officials to help identify individuals who might be susceptible to radicalization. And it calls for monitoring the use of the Internet and social networks to promote "violent extremist narratives" and countering Al Qaeda's "false narrative" that the United States is at war with Islam.

White House aides described the policy as the product of more than a year of interagency consultations. "We're trying to shift the emphasis away from the traditional national security agencies" to agencies such as the Departments of Education and Health and Human Services, Quintan Wiktorowicz, the White House's senior director for global engagement, told *Politico* reporter Josh Gerstein. "Lots of their lessons and experience doing prevention may be lessons learned" from anti-gang and anti-drug programs for the anti-radicalization fight, Wiktorowicz said.³⁷

Scholars have mixed reactions to the

report. Mark Potok, an expert on extremist and hate groups and intelligence director for the Southern Poverty Law Center, found little new in it. He called it "kind of innocuous."³⁸ Adams, the security expert at the Breakthrough Institute, calls the report "commendable" but says the policy's success depends on the government's earning trust from

at Guantánamo is raising hopes that the government will soon bring the self-proclaimed mastermind of the 9/11 attacks, Khalid Sheikh Mohammed, to trial.

Army Brig. Gen. Mark Martins, a highly regarded military lawyer currently serving as commander of the Rule of Law Field Force in Afghanistan, is to assume the new post on Oct. 1. He is succeeding Navy Capt. John Murphy, who will be returning to civilian life as a federal prosecutor in Louisiana after serving in the Guantánamo post for the past two years.³⁹

In the new post, Martins will oversee the next proceedings against Mohammed — dubbed KSM in news accounts — and four co-defendants who are charged with planning or assisting in Al Qaeda's Sept. 11, 2001, hijackings and attacks. Mohammed has been in U.S. custody since being captured in Pakistan in 2003, but political and legal disputes following his three years of detention and interrogation in a secret CIA

prison have delayed bringing him or any other 9/11 conspirators to trial.

Martins' appointment won effusive praise from a high-ranking Justice Department official in the Bush administration who continues to follow war-on-terror issues closely. In a post on the blog *Lawfare*, Harvard Law School professor Jack Goldsmith called Martins "an inspired choice" who could manage both the legal and "public presentation" aspects of a major prosecution in a military tribunal widely viewed as illegitimate.

"A successful prosecution . . . requires much more than outstanding lawyering," Goldsmith wrote on the day of Martins' appointment. "It also re-



AFP/Getty Images/Don Emmert

A banner on the rising 1 World Trade Center urges visitors to remember the terrorist attacks at the Lower Manhattan site on Sept. 11, 2001. The tower will soar 104 stories and feature observation decks at the exact heights of the former twin towers: 1,362 and 1,368 feet.

a community with reason now to be distrustful.

"No person would want to tell federal agents about the occasionally violent rants of a friend or family member if they feared doing so would deliver that loved one to a secret military brig or a court lacking full due process where they could be tried for some expansively defined crime of terrorism," Adams says.

9/11 Trial

The appointment of a new lead prosecutor for the military tribunals

quires outstanding judgment about public presentation and conduct on the public stage before many different, and often antagonistic, audiences. I cannot think of anyone more suited to this difficult task than Mark Martins.”⁴⁰

Martins graduated first in his class from the U.S. Military Academy at West Point and earned his law degree from Harvard Law School. He served under Gen. David Petraeus, now director of central intelligence, in both Iraq and Afghanistan. Martins’ role in Afghanistan entailed responsibility for detention and legal-reform issues. He also served in 2009 as co-director of the Detention Policy Task Force that Obama created shortly after taking office to review the military commission system.

Mohammed is alleged to have proposed the use of hijacked aircraft to attack U.S. sites to bin Laden in 1998 and to have received authority from bin Laden to direct preparation and execution of the plan. He and four co-defendants are charged with 2,973 counts of murder along with other counts including conspiracy, terrorism and providing material support for terrorism.*

The eventual military trial will come only after an aborted earlier military trial in 2008 followed by the Obama administration’s thwarted decision to prosecute the case in a civilian federal court in the United States. The earlier military trial began on June 5, 2008, but was halted after Mohammed said he and the co-defendants all wanted to plead guilty.

The presiding judge then put the proceedings on hold after Obama announced a review of the military commission system in January 2009. After a joint Defense-Justice Department re-

* The four co-defendants and their alleged roles are Ramzi Bin al-Shibh, coordination of attacks; Walid bin Attash, selection and training of some hijackers; Ali Abdul Aziz Ali, assistance in travel arrangements for hijackers; and Mustafa Ahmed al-Hawsawi, organization and financing.

view, Attorney General Holder announced plans in November 2009 to try the case in federal court in New York City.

But Holder was forced to return the case to the military system in April 2011 after Congress included in a Pentagon funding bill a provision that bars bringing any Guantánamo prisoner to the United States.

Charges were refiled against KSM and the others in the military system on May 9; they must next be referred for trial by a military judge known as the convening authority. The Office of Military Commissions website includes no information on the likely schedule for further proceedings.⁴¹

Administration officials are described as wanting to speed up military commission proceedings. One other major case is awaiting trial. Abd al-Rahim al Nashiri is charged with murder, terrorism and other counts in the October 2000 bombing of the *USS Cole*.

Despite sharing enthusiasm over Martins’ appointment, however, Brookings expert Wittes expects a pause in proceedings until Martins arrives in the new post. “I have trouble imagining that anything will happen before Mark Martins takes over in early October,” Wittes says. ■

OUTLOOK

Noise and Silence

Visitors to Ground Zero find continuous congestion and confusion. Office workers and commuters rush in and out of buildings and train stations. Cars, taxis and buses crowd streets narrowed by construction, and their noise combines with the whirr of cement mixers and chatter of workers to create a never-ending din. Tourists

grapple with guide books and visitor maps to get their bearings.

The visitors who make it to the “Family Room” of the Tribute WTC Visitor Center, however, find reverential silence. A ceiling-mounted television displays, one by one, the names of those killed on 9/11. The scroll takes more than four hours to complete. Two adjoining walls are covered, floor to ceiling, with more than 1,200 photographs and memorabilia: mothers and fathers with young children, police officers and firefighters in uniform, kids at the beach and on the ball field.

Amid all the mementoes of love and loss, one document stands out as starkly void of sentiment: the death certificate issued by the New York City medical examiner’s office for Scott Michael Johnson, 26, office worker. “Cause of death: physical injuries (no body recovered.)” No autopsy. Category: “homicide.”⁴²

Noise and silence: There has been much of each in the decade since the 9/11 murders. In the immediate aftermath, stunned disbelief and solemn remembrance became white-hot anger and steely resolve. Within a few months, however, Americans divided on how, when and where to respond. At home, President Bush’s war on terror seemed to sweep up many innocents in a web of ethnic and religious suspicion. Abroad, a just war successfully waged seemed to some to devolve into post-war injustice.

The controversies continued through the years, interrupted only by once-a-year ceremonies of mournful remembrance. The war in Iraq, entered into divisively on a rationale many questioned, remains contentious even after two presidents have declared it a success. The war in Afghanistan, once seen as a victory, has lost popular support after still going on almost 10 years later. And those who devised the Bush administration’s war-on-terror tactics at home and abroad continue to defend them even as a president who denounced them as

candidate is viewed by his supporters as having continued too many of them.

Are we safe? Fear persists even after a decade with no new 9/11. Former Rep. Jane Harman, a California Democrat who was a leading voice on homeland security and intelligence issues until her resignation in February, blames the government itself. “We the government haven’t given you enough encouragement to feel confident,” Harman, now president of the Woodrow Wilson International Center for Scholars in Washington, remarked at the Aspen forum. Politics is the reason, Harman explained. “It’s very easy to play the fear card,” she said.⁴³

Others say there is good reason to fear. “You’re always in a dangerous situation,” says the *National Review’s* McCarthy. “We’re still not coming to terms with the ideology that fuels terrorism.” Greenwald, the *Commentary* editor, writes of his fear that the country may “succumb to the deadly temptations of an illusory peace.”⁴⁴

Are we free? Civil liberties advocates see an erosion of individual liberty. “I saw 9/11 firsthand, and it was an awful thing,” says Kevin Bankston, a senior staff attorney with the Electronic Frontier Foundation and the lead lawyer in the group’s legal challenge to the expanded electronic surveillance initiated under Bush and being continued under Obama. “But that doesn’t mean I’m willing to abandon the basic principles on which our freedom is based and ultimately are meant to keep us safe and free.”

“I defy people to tell us what the quantifiable loss of liberty has been,” counters McCarthy. “I don’t use the phone any less than I used to. Most people aren’t up at night worrying whether Eric Holder or [former attorneys general] John Ashcroft or Michael Mukasey is reading their e-mails. The idea that there’s blanket surveillance out there, it doesn’t make sense. They don’t have the resources to do that.”

The New Republic’s Rosen cautions against exaggeration but sees the need for braver political leadership to strike a better balance between security and liberty. “The warnings that we would surrender our liberties wholesale have not been proved true,” Rosen says. “But to achieve a better balance, you need presidential leadership. There appears to be no president willing to adopt that mantle.”

Perhaps the danger will pass. Schwartz, the advocate for Islamic pluralism, forecasts an end to the global movements that have kept the West in fear for decades. “This cycle of jihadism will end,” he says. Schwartz foresees positive change in Iran and Saudi Arabia that will combine with the results of the Arab Spring to diminish the influence of radicalism throughout the Muslim world. War-on-terror hawks are less sanguine. “To a holy army avenging a centuries-old wrong, 10 years is a short time,” Greenwald writes.⁴⁵

In the meantime, a steady stream of visitors make their way to Ground Zero, looking skyward to the new symbol of American strength and all around for remembrances of what makes the country strong. On the sidewalk alongside the rebuilt firehouse that is home to Ladder Company 10 and Engine Company 10, visitors pause at a framed photo display of the 343 New York City firefighters who died that awful day. Bolted to the adjoining firehouse wall is a 56-foot-long bronze bas-relief memorial sculpture with this inscription: “Dedicated to those who fell and to those who carry on. May we never forget.”⁴⁶ ■

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David Masci and Kenneth Jost, "War on Terrorism," Oct. 12, 2001.

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David Masci and Patrick Marshall, "Civil Liberties in Wartime," Dec. 14, 2001.

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Brian Hansen, "Intelligence Reforms," Jan. 25, 2002.

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David Masci, "Torture," April 18, 2003.

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Martin Kady II, "Homeland Security," Sept. 12, 2003.

Kenneth Jost, "Re-examining 9/11," June 4, 2004.

Peter Katel, "Global Jihad," Oct. 14, 2005.

Peter Katel, "War in Iraq," Oct. 21, 2005.

Kenneth Jost, "Presidential Power," Feb. 24, 2006.

Pamela M. Prah, "Port Security," April 21, 2006.

Peter Katel and Kenneth Jost, "Treatment of Detainees," Aug. 25, 2006.

Kenneth Jost, "Understanding Islam," Nov. 3, 2006.

Samuel Loewenberg, "Anti-Americanism," March 2007. (*CQ Global Researcher*)

Roland Flamini, "Afghanistan on the Brink," June 2007. (*CQ Global Researcher*)

Seth Stern, "Torture Debate," September 2007. (*CQ Global Researcher*)

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Peter Katel, "Cost of the Iraq War," April 25, 2008.

Robert Kiener, "Crisis in Pakistan," December 2008. (*CQ Global Researcher*)

Kenneth Jost, "The Obama Presidency," Jan. 30, 2009.

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Kenneth Jost, "Interrogating the CIA," Sept. 25, 2009.

Barbara Mantel, "Terrorism and the Internet," November 2009. (*CQ Global Researcher*)

Kenneth Jost, "Prosecuting Terrorists," March 12, 2010.

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Peter Katel, "Homegrown Jihadists," Sept. 3, 2010.

Marcia Clemmitt, "U.S.-Pakistan Relations," Aug. 5, 2011.

The Next Step:

Additional Articles from Current Periodicals

Al Qaeda

Gertz, Bill, "Bin Laden's Death Likely to Shatter Al Qaeda," *The Washington Times*, May 11, 2011, p. A1, www.washingtontimes.com/news/2011/may/10/bin-ladens-death-likely-to-shatter-al-qaeda/.

Several security and intelligence officials say that the lack of a unifying leader after Osama bin Laden's death may mean the end of Al Qaeda.

Johnson, Kevin, "Terror Groups Live On Despite Leadership Void," *USA Today*, May 3, 2011, p. A6, www.usatoday.com/NEWS/usaedition/2011-05-03-AlQaeda03_ST_U.htm.

Many analysts say that the most troubling aspect of Al Qaeda's influence is the emergence of American jihadists who have drawn inspiration from bin Laden.

Miller, Greg, and Joby Warrick, "U.S. Security Threat From al-Qaeda May Be Undiminished," *The Washington Post*, May 2, 2011, p. A1.

Al Qaeda may still pose a threat to the United States because it has established ties to militant movements in other countries such as Somalia.

Islam

Abdul Rauf, Feisal, "One Nation Under . . . Muslims' Ideals in Line With Other Americans," *Fort Wayne (Ind.) Journal Gazette*, April 8, 2011, p. A11, www.journalgazette.net/article/20110408/EDIT05/304089995/-1/EDIT01.

Though radicals exist on the fringes of Islam, most American Muslims agree on the principal objectives of life, respect and dignity.

Kamandy, Jamal, "Islamophobia Poses Threat to Freedom," *Fort Collins Coloradoan*, April 5, 2011, www.crescentpost.com/2011/04/the-coloradoan-islamophobia-poses-threat-to-freedom/.

American Muslims who had nothing to do with the 9/11 terror attacks have unfairly been targeted with acts of violence and discrimination, according to a student at Colorado State University.

Levy, Stephen, "Radical Muslims Recruit Criminals in U.S. Prisons," *The Washington Times*, June 16, 2011, p. A9, www.washingtontimes.com/news/2011/jun/15/radical-muslims-recruit-criminals-in-us-prisons/.

Radical Muslims are using American prisons to recruit criminals for terrorist activities, according to several counterterrorism experts.

Survivors

Alvarez, Maria, "No Room For Survivors," *Newsday*, July 19, 2011, p. 4, www.newsday.com/news/new-york/9-11-survivors-shut-out-of-anniversary-1.3034643.

The office of New York Mayor Michael Bloomberg has turned away many survivors of the 9/11 attacks for the 10th anniversary memorial service because of limited seating space.

Girardot, Frank C., "Pasadena Sept. 11 Survivor: 'I've Been Waiting to Hear This News For So Long,'" *San Gabriel Valley (Calif.) Tribune*, May 1, 2011, www.pasadenastarnews.com/news/ci_17970228?source=pkg.

A survivor of the World Trade Center terrorist attacks says he got chills when he heard President Obama announce bin Laden's death.

Victim Compensation

Grant, Jason, "9/11 Victim Fund Questioned," *Gloucester County (N.J.) Times*, July 29, 2011, www.nj.com/news/index.ssf/2011/07/911_health_compensation_fund.html.

Many first responders from the 9/11 attacks are upset that the Victim Compensation Fund will not compensate them for the cancer they said they developed as a result of their rescue efforts.

Hernandez, Raymond, "In Step to Reopen 9/11 Health Fund, Administrator Is Named," *The New York Times*, May 19, 2011, p. A21, www.nytimes.com/2011/05/19/nyregion/overseer-of-911-health-fund-is-chosen.html.

The Justice Department has appointed Sheila Birnbaum, who mediated lawsuits brought by 9/11 families, to administer the reopening of the September 11th Victim Compensation Fund.

Zaremba, John, "9/11 Victim's Kin Pledge: We'll Make United Pay," *Boston Herald*, July 28, 2011, p. 14, www.bostonherald.com/news/regional/view.bg?articleid=1354621.

The Boston family of a 9/11 victim has vowed to make United Airlines accountable for their son's death.

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Jost, Kenneth. "Rethinking the Death Penalty." *CQ Researcher* 16 Nov. 2001: 945-68.

APA STYLE

Jost, K. (2001, November 16). Rethinking the death penalty. *CQ Researcher*, 11, 945-968.

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