

information regarding her allegations in the presence of three uncleared members of her family without authorization. Would these actions disqualify her from a security clearance, given the circumstances of her concern about a foreign attempt to penetrate or influence FBI operations at her workplace?

(7) What guidance is provided to FBI contract linguists as to the steps they should take if they are concerned about a possible foreign attempt to penetrate or influence FBI operations? How well is this guidance understood by contract linguists in the FBI translation centers and other FBI personnel who would handle such matters?

(8) What improvements, if any, are needed to encourage FBI contract linguists and other FBI contract personnel to come forward with such counterintelligence concerns and to ensure that they are not adversely affected as a result of seeking to assist FBI counterintelligence efforts? Was Ms. Edmonds' case handled in a manner that would encourage such reporting in the future?

Please let us know the timetable for your investigation and advise us of the results.

Sincerely,

PATRICK LEAHY,
Chairman.

CHARLES E. GRASSLEY,
United States Senator.

[From the Washington Post, June 19, 2002]

2 FBI WHISTLE BLOWERS ALLEGE LAX SECURITY, POSSIBLE ESPIONAGE

(By James V. Grimaldi)

In separate case, two new FBI whistle-blowers are alleging mismanagement and lax security—and in one case possible espionage—among those who translate and oversee some of the FBI's most sensitive, top-secret wiretaps in counterintelligence and counterterrorist investigations.

The allegations of one of the whistle-blowers have prompted two key senators—Judiciary Chairman Patrick J. Leahy (D-VT) and Charles E. Grassley (R-Iowa)—to pose critical questions about the FBI division working on the front line of gathering and analyzing wiretaps.

That whistle-blower, Sibel Edmonds, 32, a former wiretap translator in the Washington field office, raised suspicions about a co-worker's connections to a group under surveillance.

Under pressure, FBI officials have investigated and verified the veracity of parts of Edmonds' story, according to documents and people familiar with an FBI briefing of congressional staff. Leahy and Grassley summoned the FBI to Capitol Hill on Monday for a private explanation, people familiar with the briefing said.

The FBI confirmed that Edmonds' co-worker had been part of an organization that was a target of top-secret surveillance and that the same co-worker had "unreported contacts" with a foreign government official subject to the surveillance, according to a letter from the two senators to the Justice Department's Office of the Inspector General. In addition, the linguist failed to translate two communications from the targeted foreign government official, the letter said.

"This whistleblower raised serious questions about potential security problems and the integrity of important translations made by the FBI," Grassley said in a statement. "She made these allegations in good faith and even though the deck was stacked against her. The FBI even admits to a number of her allegations, and on other allegations, the bureau's explanation leaves me skeptical."

The allegations add a new dimension to the growing criticism of the FBI, which has cen-

tered in recent weeks on the bureau's failure to heed internal warnings about al-Qaida leading up to the Sept. 11 terrorist attacks. Last month, FBI agent Coleen Rowley also complained about systemic problems before the attacks. Rowley works in Minneapolis, where agents in August unsuccessfully tried to get a search warrant to look into the laptop computer of a man now described as the "20th hijacker."

Finding capable and trustworthy translators has been a special challenge in the terrorism war. FBI officials told government auditors in January that translator shortages have resulted in "the accumulation of thousands of hours of audio tapes and pages" of untranslated material. After the attacks, FBI Director Robert S. Mueller III issued a plea for translators, and hundreds of people applied.

Margaret Gulotta, chief of language services at the FBI, said the bureau has hired 400 translators in two years, significantly reducing the backlog on high-priority cases while upholding strict background checks. "We have not compromised our standards in terms of language proficiency and security," Gulotta said.

In the second whistle-blower case, John M. Cole, 41, program manager for FBI foreign intelligence investigations covering India, Pakistan and Afghanistan, said counterintelligence and counterterrorism training has declined drastically in recent years as part of a continuing pattern of poor management.

Cole also said he had observed what he believed was a security lapse regarding the screening and hiring of translators. "I thought we had all these new security procedures in place, in light of [FBI spy Robert P.] Hanssen," Cole said. "No one is going by the rules and regulations and whatever policy may be implemented."

Edmonds and Cole have written about their concerns to high-level FBI officials. Edmonds wrote to Dale Watson, the bureau's counterterrorism chief, and Cole wrote to Mueller. Both cases have been referred to Justice's Office of the Inspector General, which is investigating, government officials confirmed.

The FBI said it was unable to corroborate an allegation by Edmonds that she was approached to join the targeted group. Edmonds said she told Dennis Saccher, a special agent in the Washington field office who was conducting the surveillance, about the co-worker's actions and Saccher replied. It looks like espionage to me," Saccher declined to comment when contacted by a reporter.

Edmonds was fired in March after she reported her concerns. Government officials said the FBI fired her because her "disruptiveness" hurt her on-the-job "performance." Edmonds said she believes she was fired in retaliation for reporting on her co-worker.

Edmonds began working at the FBI in late September. In an interview, she said she became particularly alarmed when she discovered that a recently hired FBI translator was saying that she belonged to Middle Eastern organization whose taped conversations she had been translating for FBI counterintelligence agents. Officials asked that the name of the target group not be revealed for national security reasons.

A Washington Post reporter discovered Edmonds' name in her whistle-blowing letters to federal and congressional officials and approached her for an interview.

Edmonds said that on several occasions, the translator tried to recruit her to join the targeted foreign group. "This person told us she worked for our target organization," Edmonds said in an interview. "These are the people we are targeting, monitoring."

Edmonds would not identify the other translator, but The Post has learned from other sources that she is a 33-year-old U.S. citizen whose native country is home to the target group. Both Edmonds and the other translator are U.S. citizens who trace their ethnicity to the same Middle Eastern country. Reached by telephone last week, the woman, who works under contract for the FBI's Washington field office, declined to comment.

In December, Edmonds said the woman and her husband, a U.S. military officer, suggested during a hastily arranged visit to Edmonds' Northern Virginia home on a Sunday morning that Edmonds join the group.

"He said, 'Are you a member of the particular organization?'" Edmonds recalled the woman's husband saying. "[He said,] 'It's a very good place to be a member. There are a lot of advantages of being with this organization and doing things together'—this is our targeted organization—and one of the greatest things about it is you can have an early, an unexpected, early retirement. And you will be totally set if you go to that specific country."

Edmonds also said the woman's husband told her she would be admitted to the group, especially if she said she worked for the FBI.

Later, Edmonds said, the woman approached her with a list dividing up individuals whose phone lines were being secretly tapped. Under the plan, the woman would translate conversations of her former co-workers in the target organization, and Edmonds would handle other phone calls. Edmonds said she refused and that the woman told her that her lack of cooperation could put her family in danger.

Edmonds said she also brought her concerns to her supervisor and other FBI officials in the Washington field office. When no action was taken, she said, she reported her concerns to the FBI's Office of Professional Responsibility, then to Justice's inspector general.

"Investigations are being compromised," Edmonds wrote to the inspector general's office in March. "Incorrect or misleading translations are being sent to agents in the field. Translations are being blocked and circumvented."

Government officials familiar with the matter who asked not to be identified said that both Edmonds and the woman were given polygraph examinations by the FBI and that both passed.

Edmonds had been found to have breached security, FBI officials told Senate investigators. Edmonds said that two of those alleged breaches were related to specific instruction by a supervisor to prepare a report on the other translator on her home computer.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred July 29, 2000 in Mahwah, NJ. Two gay men were beaten in an apartment complex parking lot. The assailant, William Courain, 26, was at an apartment complex party when he began making obscene remarks to several of the guests about their sexual

orientation. He left the party and confronted two men in the parking lot, making derogatory comments about their sexual orientation before attacking them. Witnesses say he began punching and kicking the two victims, one of whom suffered bleeding from the mouth and eyes and was treated at a local hospital. Mr. Courain was arrested and charged with aggravated assault, bias harassment and bias assault in connection with the incident.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

WORLD REFUGEE DAY

Mr. KENNEDY. Mr. President, I am honored to join in celebrating World Refugee Day and the many contributions of refugees around the world. The United Nations High Commission on Refugees works tirelessly to provide hope and opportunity to many of the world's most vulnerable people, and I commend High Commissioner Lubbers for his leadership in this area.

The focus of this year's celebration is on the critical situation of refugee women and children, who make up 70 percent of the refugee population. More must be done to address the special needs of these individuals, and World Refugee Day celebrations are an important step in the right direction.

To celebrate this day, United Nations Goodwill Ambassador, Angelina Jolie has commissioned a national poster competition and I am proud to say a fifth-grade student from Newton, MA, Lev Matskevich, is one of the winners. I would like to congratulate all of the winners, Lev, Sarah Rahmani from Edmonds, WA, and Roxann Acuna from San Antonio, TX for their hard work not only on the posters, but in bringing needed attention to the plight of refugees.

The theme of this year's poster contest, as it says proudly on Lev's poster, is tolerance. As a nation of immigrants we must remember that our tolerance toward immigrants has been a principal source of our progress and achievement.

With this year's celebration of World Refugee Day and these wonderful posters, we continue the important tradition of recognizing the contributions of refugees and encouraging the United States' continued commitment to providing a safe-haven to those in need around the world.

SUPREME COURT RULING THE EXECUTION OF THE MENTALLY RETARDED UNCONSTITUTIONAL

Mr. FEINGOLD. Mr. President, earlier today, the United States Supreme Court issued one of the most signifi-

cant decisions curtailing the death penalty since the Court first found capital punishment unconstitutional in 1972, and then reinstated it four years later. In a six to three decision in *Atkins v. Virginia*, the Court ruled that the execution of the mentally retarded is unconstitutional. The Court concluded that such executions are cruel and unusual punishment in violation of the Eighth Amendment.

This decision is a notable turning point for our Nation.

Indeed, a national consensus opposing such executions has been growing for some time. In 1989, when the Supreme Court upheld the execution of mentally retarded persons, only two of the 38 States that authorize the use of the death penalty had banned executions of the mentally retarded. Since then, 16 more States have enacted laws prohibiting the practice. Now, 18 of the 38 States that use the death penalty have banned the practice. And of the 20 States in the country that continue the practice, nearly half have pending legislation to halt executions of the mentally retarded. In addition, the Federal Government, which re-enacted the death penalty in 1988, has banned executions of the mentally retarded.

A recent poll by the National Journal found that only 13 percent of Americans favor the death penalty for the mentally retarded. As this poll indicates, Americans recognize that it is cruel and unusual to apply the death penalty to adults who have the minds of children. In many cases, mentally retarded adults accused of crimes cannot fully understand what they have been accused of, and often do not comprehend the severity of the punishment that awaits them. Accused adults with low mental capacity are often characteristically eager-to-please, and more likely to falsely confess to a crime.

Indeed, as Justice Stevens, writing for the majority, stated, concerning mentally retarded defendants, "Their deficiencies do not warrant an exemption from criminal sanctions, but they do diminish their personal culpability." He wrote: "Mentally retarded defendants may be less able to give meaningful assistance to their counsel and are typically poor witnesses, and their demeanor may create an unwarranted impression of lack of remorse for their crimes." Justice Stevens continued: "Mentally retarded defendants in the aggregate face a special risk of wrongful execution."

The Court also reasoned that the usual justifications for capital punishment, retribution and deterrence, do not apply to mentally retarded defendants. With respect to retribution, Justice Stevens wrote that "the severity of the appropriate punishment necessarily depends on the culpability of the offender." But "[i]f the culpability of the average murderer is insufficient to justify the most extreme sanction available to the State, the lesser culpability of the mentally retarded offender surely does not merit that form of retri-

tribution," Justice Stevens wrote. He concluded: "Thus, pursuant to our narrowing jurisprudence, which seeks to ensure that only the most deserving of execution are put to death, an exclusion for the mentally retarded is appropriate."

With respect to the other justification for capital punishment, deterrence, Justice Stevens wrote that "executing the mentally retarded will not measurably further the goal of deterrence." The Court reasoned:

The theory of deterrence in capital sentencing is predicated upon the notion that the increased severity of the punishment will inhibit criminal actors from carrying out murderous conduct. Yet it is the same cognitive and behavioral impairments that make these defendants less morally culpable . . . that also make it less likely that they can process the information of the possibility of execution as a penalty and, as a result, control their conduct based on that information.

Today the Supreme Court reflected the sentiments of our nation on this important issue. As the majority stated: "The practice [of executing the mentally retarded] . . . has become unusual, and it is fair to say that a national consensus has developed against it." The majority concluded: "Construing and applying the Eighth Amendment in the light of our 'evolving standards of decency,' we therefore conclude that such punishment is excessive and that the Constitution 'places a substantive restriction on the State's power to take the life' of a mentally retarded offender."

The Court's decision confirms that our Nation's standards of decency concerning the ultimate punishment are indeed evolving and maturing. Even before today's decision, we have known that the current death penalty system is broken and plagued by errors, including the risk of executing the innocent and racial and geographic disparities.

As evidence mounts that the administration of capital punishment is plagued by inexcusable flaws, the American people are taking notice, and taking action. Illinois Governor George Ryan took the courageous and extraordinary step of placing a moratorium on executions two years ago. He also created an independent, blue ribbon commission to review the Illinois death penalty system. The commission released its report earlier this year and made 85 recommendations for improving the administration of the death penalty.

More and more Americans are realizing that they can no longer simply look the other way when confronted with glaring injustices. And today, a majority of the justices on our nation's highest court have joined this growing chorus of Americans.

I am proud of our Court today. I am proud of a justice system that recognizes that the execution of the mentally retarded is unconstitutional, inhumane, and simply wrong. Today we can declare an important and historic victory for justice.