

## PROLOGUE

# ORDINARY DISORDER

The Federal Bureau of Investigation—what better icon for United States law enforcement could there be?

The FBI has been in the forefront of federal law enforcement since the early 1930s when it battled gangsters with colorful names like Machine Gun Kelley. That campaign was mounted by FBI Director J. Edgar Hoover, who had been appointed in 1924 with a mandate to reform what had been the lightly regarded Bureau of Investigation of the Department of Justice. Hoover reinvented the organization, which was renamed the Federal Bureau of Investigation in 1935, and he campaigned relentlessly to increase the FBI's power and autonomy until his death in 1972.<sup>1</sup>

Under Hoover, the FBI pursued missions linked to shifting public passions and fears. Hoover dedicated FBI units to counter-intelligence work against Nazi infiltration in the U.S. before and during the Second World War,<sup>2</sup> and similarly positioned the Bureau relative to Communism in the 1950s.<sup>3</sup> In the 1960s, he marshaled the FBI against die-hard segregationists violently resisting integration in the South,<sup>4</sup> even though Hoover's obsession with "communist influences" also led to surveillance of civil rights workers and leaders such as Martin Luther King.<sup>5</sup> As opposition to the Viet Nam war grew on college campuses in the 1960s, Hoover added student activists and progressive professors to the FBI watch list and made speeches that played on the anxieties of parents of college-age students.

Hoover constantly burnished the FBI's image. The 1959 movie *The FBI Story* featured a voice-over cameo by Hoover.<sup>6</sup> In 1965, *The FBI* began a nine-year run as a Sunday night TV staple in U.S. living rooms.<sup>7</sup> Washington visitors toured the agency, including the vaunted FBI Lab, which pioneered the scientific analysis of evidence. FBI profilers were zeroing in on serial killers years before fictional agent Clarice Starling matched wits with Hannibal "The Cannibal" Lecter in *Silence of the Lambs*.<sup>8</sup> Since 1930 the FBI has published the Uniform Crime Reports (UCR), the annual register of US crimes. The marquee "FBI Ten Most Wanted" list has been around since 1950. As symbolized by the red "deceased" banner the FBI attached to Osama Bin Laden's

“most wanted” photo in 2011, the Bureau doesn’t have to make the arrest to share the glory in a major case.

The FBI was not without critics, including Eleanor Roosevelt, a towering figure long after the 1945 death of her husband, Franklin, the 32nd President of the United States. Mrs. Roosevelt was the subject of voluminous FBI files and, because of her pointed critiques of the FBI, earned Hoover’s barely disguised antipathy.<sup>9</sup> Congressional investigations later concluded that the FBI’s counterintelligence surveillances of the 1960s and 1970s ensnared many more citizens exercising their rights than individuals engaged in criminally subversive behavior.<sup>10</sup>

Other embarrassments for the FBI followed upon Hoover’s death. Sexual indiscretions and personal peccadilloes had been catalogued in raw FBI files that Hoover maintained in order to neutralize various public officials and influential citizens. Hoover’s immediate successor, L. Patrick Gray, urged on by White House staff, destroyed files related to the Watergate burglary that ultimately led to the resignation of President Richard M. Nixon.<sup>11</sup> In 1993, FBI Director William Sessions was fired by President Clinton after the Justice Department’s Office of Professional Responsibility questioned reimbursements and tax write-offs Sessions sought for trips to and from his home and other properties owned by family members.<sup>12</sup>

Despite these occasional critiques and stumbles, the FBI remained solid in the eyes of the media, the general public and, most importantly, Washington policy makers. Even critics were complimentary in a backhanded way, attributing to the FBI a tremendous capacity to suppress dissent. To most Americans, however, the FBI remained the exemplar of what a law enforcement agency should be.

The FBI’s stock only rose when President Bill Clinton, in 1993, appointed Federal Judge Louis B. Freeh as Director. Led by Freeh, a former FBI field agent and federal prosecutor, the FBI seemed poised to reach new heights.

Instead the FBI imploded.

The fuse was the 1992 Ruby Ridge case that Freeh inherited from Sessions. Things went wrong from the start at Ruby Ridge in rural Idaho, home to Randy Weaver, a white separatist, and his family. Because Weaver had failed to appear for a court date on a weapons charge, a team of U.S. Marshals was staking out the family cabin when a gunfight erupted between the marshals, Weaver’s fourteen-year-old son and Kevin Harris, a friend of the Weavers. When the smoke cleared, a U.S. Marshal was dead, as was Weaver’s son and the family dog. The next day the FBI entered the fray with controversial “fire at will” rules of engagement, under which an FBI sniper inadvertently killed Weaver’s wife while she was holding their infant child. Weaver and Harris,

charged with murdering a federal agent, ultimately were acquitted on all but minor charges. The trial, and its extended aftermath, turned into an indictment of the FBI's tactics, forensic work and veracity that eventually led to obstruction of justice charges against one FBI agent, and administrative action against several Bureau officials.<sup>13</sup>

As the 1993 Ruby Ridge trial loomed, the FBI stumbled again, this time at the Waco, Texas compound of the Branch Davidian religious sect.<sup>14</sup> At Waco, the FBI took over after the Bureau of Alcohol, Tobacco and Firearms (ATF) had suffered twenty casualties, including four agents dead, while storming the compound in order to serve a weapons violations warrant. A siege ensued but, after six weeks of stalled negotiations, FBI officials who favored an assault gained the upper hand in the Bureau and in the Department of Justice, where Attorney General Janet Reno had just taken office. Concerned about allegations of child abuse and relying on understated FBI descriptions of the planned assault, Reno gave the go-ahead. Shortly after the assault began, flames consumed the compound, leaving over seventy Branch Davidians dead. Years of investigations followed and, as late as 2000, Congressional reports continued to dissect the FBI's decision-making and tactical choices at Waco.<sup>15</sup>

The FBI Lab's stellar reputation also took a dive in the 1990s. The qualifications of the lab's analysts, the validity of its testing procedures and its conclusions about evidence were all successfully challenged in case after case.<sup>16</sup> Federal prosecutors at times resorted to outside forensic experts instead of putting FBI lab personnel on the stand.<sup>17</sup>

The FBI seemed no better at spotting a rogue agent in its midst. On and off from 1985 to 2001 Robert Hanssen, an FBI agent working in counter-intelligence, had given the Russians vital U.S. secrets, including the identity of Russian officials working for the U.S. Hanssen was an arrogant loner whose peculiar behavior did not escape the attention of his co-workers, or his FBI agent brother-in-law who alerted superiors that Hanssen might present a security risk. Nonetheless, Robert Hanssen progressed steadily to ever more responsible positions in the FBI that further enabled his deadly spying.<sup>18</sup>

Then there was 9/11. By August 2001, FBI field agents in Arizona and Minnesota had evidence pointing to a terrorist plot to hijack U.S. airliners. In Arizona, an FBI agent had documented flight training by several young males from the Middle East in the U.S. on visas. Agents in the Minneapolis field office were holding Zacarias Moussouai on immigration charges but their real concern was his recent jumbo jet flight training, French intelligence reports indicating terrorist ties and his adamant refusal to allow a search of his computer. But FBI headquarters failed to connect the dots. A search warrant request for Moussouai's computer was denied by headquarters in a process as

much concerned with maintaining the FBI's internal and external boundaries as with the capture of terrorists. And, to compound the poor interagency coordination, FBI headquarters staff was not privy to CIA information that would have fleshed out the skeletal pattern of terrorist threat uncovered by the two FBI field offices.<sup>19</sup> When the twin towers of the World Trade Center fell, so too did the stock of the FBI.

The FBI's administrative operations have also been plagued. Entering the new millennium with multiple, antiquated and incompatible computer systems, the FBI began developing the Virtual Case File, which promised state of the art digital case management, at least until the plug was pulled after five years and \$170 million dollars.<sup>20</sup> Sentinel, the FBI's next attempt at 21st century case management, was also beset by delays and cost overruns and had a May 2012 launch date as this book went to press.<sup>21</sup>

How could the vaunted FBI encounter this succession of debacles? And why did the FBI share the sorry stage with other federal agencies whose strategic and tactical blunders helped raise the curtain? Why did these failures so surprise administration officials and legislators who had long expressed confidence in the FBI, as well as in the CIA, even as the competitive codependency of the two agencies helped mask Hanssen's spying and shield the 9/11 terrorists?

One part of the answer is that we generally have a positive image of our organizations. That we put a lot of stock in the organizations that serve us is understandable. We buy from them, work in them and read about this or that organization brought to new heights by one or another dynamic executive. It's not that we are blind when a company like Lehman Brothers collapses, or management struggles destabilize premier companies like Disney or Morgan Stanley. We do notice, but that doesn't shatter our faith. We have too much invested in the success of all of our organizations to dwell very long on their failures.

We are similarly invested in our public organizations and particularly our law enforcement agencies, whose functions are so critical. But, paradoxically, we expect less of them. Our lowered expectations are shaped by a drumbeat of "bureaucracy bashing" from the media, from free market champions, and also from political candidates and office holders who shamelessly decry agency structures and processes they may have helped create. But bureaucracy, per se, is not pathological, though some elements peculiar to some government agencies, such as contradictory mandates, can pave the way for failure.

If bureaucracy is not to blame then what is? Organizational failures, public or private, are often blamed on inept executives, wrongheaded policies, or the errors of individual employees or particular work groups. The common theme of all of these "explanations" is that the cause of failure is localized, identifiable and can be surgically removed, leaving a healthy organization behind.

So, for instance, if you remove William Sessions, a less than inspiring leader who did not mesh smoothly with the FBI culture, all will be well. If your big city police agency is torn by a malignant corruption scandal, just identify and prosecute the corrupt cops, make some administrative reforms and pronounce the department cancer-free. These quick cures usually “work”—until the department continues off course under new leadership or a new group of renegade officers sets out to beat the system.

The fact of the matter, and the primary focus of this book, is that law enforcement agencies fail because of deeply rooted and largely hidden defects of structure, culture and collective behavior. These defects, far from being anomalies in law enforcement agencies or in organizations generally, are embedded in the everyday life of any organization. The FBI did not simply have a run of bad luck that produced discrete failures involving poor assessments of terrorist threats, breakdowns in the FBI Lab, or the presence of an agent-mole spying for Russia. Quite the contrary: Each of these FBI failures was deeply rooted in an agent-centric culture, structures focused on criminal investigation, a history of bureaucratic infighting and a continuing drive for dominance in federal law enforcement. Because common and enduring characteristics of organizations so often set the stage for failure, we ought to fully understand what those characteristics are and how they operate and interact.

So this book will endeavor to make sense of the factors that cause law enforcement organizations to fail. We will do this without cant or righteousness, mainly because organizations are neither inherently bad nor inhumane. In fact, organizations often fail because they provide such a supportive culture for humans to be humans, flaws and all. All organizations, law enforcement agencies included, provide fertile grounds for struggles over hierarchical ascent, the shunning of whistleblowers, policy sabotage by renegade workgroups, and abuse of the organization’s resources by executives and rank-and-file alike.

Law enforcement organizations fail, and fail way more often than we think or even know, because all organizations are inherently fragile and error-prone. Particular organizations, moreover, cannot easily escape their essential natures. We should not be surprised when 21<sup>st</sup> century FBI operational problems feature “agents in charge” approaches and bureaucratic infighting—significant factors in the FBI’s ten-year quest for a working integrated case management system. Nor should we be surprised when the next big city police scandal features a renegade group of cops administering street justice, planting evidence or using perjury to gain convictions.

We are going to walk the “dark side” of law enforcement organizations because it is there, always. The law enforcement agency in crisis ought to be care-

fully illuminated and thoroughly understood, not just demonized as a tool of class oppression or simplistically diagnosed as bungling bureaucracy. Understood, the “dark side” of any organization becomes at once less threatening and more manageable. Policy inertia can be recognized more quickly. Malignant individuals can be more easily spotted. Perverse incentives can be highlighted. Deviant cultures within the organization can be identified. Bankrupt philosophies can be confronted. Solutions can be targeted to address both the symptoms and the underlying conditions.

For those who study organizations, we hope to provide meaningful categories of organizational pathology that help make better sense of the many ways organizations fail. Pathology, per se, is a little utilized approach to organizational analysis but it shouldn't be. Most observers of police organization and management are fundamentally concerned with the health of the law enforcement enterprise. Without a strong understanding of the pathologies that threaten the well being of law enforcement agencies, policy makers, law enforcement executives and academics may well prescribe the wrong medicine.

The real-life cases that populate the categories will engage readers, students included. Some cases remain extremely high-profile and dealt major blows to the agencies involved—the New Orleans Police Department is still in recovery from its epic breakdowns during 2005's Hurricane Katrina. Other cases were more of an embarrassment to police departments forced to explain brainless policies, clueless management or slapstick employee behavior. Whether a disaster or an embarrassment, each case becomes an entrée to learning about how law enforcement organizations work and how they can work better. This book should be an accessible and effective learning tool in the criminal justice classroom and beyond.

This book is also intended for the men and women working on the front lines of law enforcement. I have taught both aspiring and in-career law enforcement officers at John Jay College of Criminal Justice of The City University of New York for over thirty years. The organizational dynamics course that led to this book was custom-built for New York City Police Department (NYPD) officers and commanders as part of a four-course sequence designed to heighten their awareness of how community and organizational factors impact the effectiveness and legitimacy of law enforcement. I have learned so much over the years from the law enforcement officers in my classes that this book is, in many ways, a repayment.

Law enforcement supervisors deserve the tools, which this book provides, for making sense of things gone wrong. When law enforcement organizations face crises or make high-profile mistakes, the maelstrom of criticism that erupts tempts executives to escape the storm by pinning blame on individual

officers and commanders who are no more than the symptoms of a larger organizational disease. This book is about treating the diseases, not the symptoms; and discusses measured and judicious approaches that keep individual error in proper perspective. All things considered, the public safety agency is simply more manageable when supervisors and commanders understand the structural, cultural and behavioral factors that make their organizations vulnerable to crisis, turmoil and forced change.

For rank-and-file officers, I hope this book makes their agency less of an inscrutable “black box.” Officers who better understand the perspectives, incentives and duties that guide managerial behavior are less likely to reflexively oppose initiatives from above. Satisfaction at work and long-term career success are also more likely for public safety personnel who really understand their agency’s organizational dynamics, even and especially the potential for those dynamics to cause “crazy situations.”

This book also speaks to the citizenry at large, including the student-citizens. All of us, sooner or later, have our wellbeing tightly coupled with one or another organization and, especially in this age of terror, we all must rely on the effectiveness of our law enforcement agencies. Each of us ought to be a discerning reviewer of reports concerning problems in our public safety services. More generally, we all ought to understand, and do what we can to strengthen, the essential fragility of the organizations that serve us, employ us and upon which so much of modern life depends.

## Endnotes

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