



# THE BULLETIN



**1950 TO 2012:**  
**The Tradition Continues...**

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# ROBERT S. MUELLER, III, DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION, PRESENTS 2012 LEWIS F. POWELL, JR. LECTURE

The Lewis Powell Lecture Series was established in recognition of The Honorable **Lewis F. Powell, Jr.**, who served as the twentieth President of the American College of Trial Lawyers, from 1969 to 1970. Justice Powell, himself a distinguished and skilled lawyer of national reputation, became, in 1972, the ninety-ninth Justice to sit on the Supreme Court of the United States, where he served with honor and distinction until his retirement in 1987.

Fellow **Robert S. Mueller, III**, Director of the Federal Bureau of Investigation, returned to the College, after having spoken most recently in 2002, to present the 2012 Lewis F. Powell, Jr. Lecture at the 2012 Annual Meeting at The Waldorf-Astoria in New York, New York.



### 2012 LEWIS F. POWELL, JR. LECTURE, BY ROBERT S. MUELLER, III

Justice Powell took a keen interest in the FBI and in law enforcement in general. Before his appointment to the court, he often wrote and spoke publicly about the rising crime rates in this country. We in the FBI were most fortunate that he seemed to approve of our efforts to address crime. And when Justice Powell died in 1998, our nation lost a devoted advocate for the rule of law.

Today I would like to take a few moments to talk about the FBI's transformation in the years since September 11 and what we are doing to propel the FBI into its next era. But I would like to discuss all of this within the context of the rule of law, for every facet of our mission, the FBI's mission, must be viewed through this prism.

For Justice Powell, preserving the rule of law was paramount to his decision-making. Powell's thoughts are embodied by language he proposed in an early draft of the Court's landmark 1974 decision in *United States v. Nixon*. Powell wrote,

*We are a nation governed by the rule of law. Nowhere is our commitment to this principle more profound than in the enforcement of the criminal law, the twofold aim of which is that guilt shall not escape or innocence suffer.*

While his words ultimately were not included in the final opinion, their importance cannot be overstated. We are indeed a nation governed by rule of law. It is a hallmark of our democracy, and our commitment

to this ideal must never, ever waver.

We in the FBI face significant and evolving terrorist and criminal threats. Regardless of the threats we face or the changes we make, we must act within the confines of the Constitution and the rule of the law -- every day and in every one of our investigations.

Bob [Robert B. Fiske, Jr., Past President, in his introduction of Director Mueller] alluded to some of the changes in the Bureau since September 11. When I took office in September of 2001, I expected to focus on areas familiar to me as a prosecutor - drug cases, white-collar criminal cases, violent crimes, homicides. But days later, the attacks of September 11 changed the course of the Bureau. National security—that is, preventing terrorist attacks—became our top priority. We shifted 2,000 of the then-5,000 agents in our criminal programs to national security. We dramatically increased the number of Joint Terrorist Task Forces with state, local, and other federal agencies. We increased them dramatically across the country.

We also understood that we had to focus on long-term strategic change as well, enhancing our intelligence capabilities and updating our technology. We had to build upon strong partnerships and forge new friendships both here at home and abroad. And at the same time, we had to maintain our efforts against traditional criminal threats, which we have done.

We had to do all of this while respecting the rule of law and the safeguards guaranteed by the Constitution.



Today, the FBI is a threat-focused, intelligence-driven organization. Of course there have been challenges along the way. Looking back on the past decade, I recognize that I have learned some hard lessons on how to lead an organization at a time of transition. One such lesson relates to the need to delegate.

I was a Marine, and I went to Officer Candidate School where they evaluate you. Initially they evaluate you physically, your ability to do ten-mile runs and pushups and the like, as well as academically, and I did okay in those areas.

But there was another category on that evaluation form that they called “delegation,” in which I got an F. I complained to the training sergeant. I said, “What is this delegation business and why are you evaluating me on it?” And I quickly learned the answer to that. It was absolutely an essential component of being an officer, and it is an essential component of running any organization. To whom you delegate and how you delegate is as important as anything else. I have learned some lessons better than others. Some people will tell you I’m still not very good at delegating, and they are the individuals who are currently being micromanaged by me.

The management books write that as the head of an organization, you should focus on the vision. You should be on the balcony and not on the dance floor. While this generally may be true, for me there were and are today those areas where one needs to be substantially and personally involved.

First, there was the terrorist threat and the need to know and understand that threat to its roots; and second, there is the need to ensure and shepherd the transformation of the Bureau’s technology. And unfortunately, the management books offered no “how-to” in either of these categories, despite the fact that you receive a fair amount of on-the-job education.

Another hard lesson to learn, particularly difficult in Washington, is the need to understand your place and the need for humility. Several years ago I had a rather salty chief of staff, an old friend by the name of Lee Rawls, who has since passed away, who was a naturally humble individual. He knew how to cut through nonsense and get to the heart

of the matter better than anyone I knew. He also knew how to put me in my place. He became my chief of staff. And more than once, when I began to micromanage a situation, he would politely push me to the side, and say, “Don’t listen to him. He thinks he’s the Director of the FBI, but we can take care of this.”

I recall one particularly heated meeting where everyone was frustrated, most of them were frustrated with me, and if I were fair, I would tell you that I was a wee bit ill-tempered. Lee sat silently by and then said out of the blue, “What is the difference between the Director of the FBI and a four-year-old child?” The room grew hushed, everybody awaiting the answer. And finally, he said, “Height.” You need a Lee Rawls all the time.

Despite these leadership challenges and a few more substantive obstacles along the way, we have made strides over the past ten years. Together, with our state and local partners, we have thwarted dozens of terrorist attacks since September 11, and we have updated the technology we use to collect, analyze and share intelligence. We have put into place a long-term strategy to ensure that we are doing what is necessary to meet our priorities. And we have new metrics for success based on terrorist attacks prevented, and the long-term impact of our criminal programs at the neighborhood level- not just the number of arrests and convictions, but on the consequent decreases in street crimes and homicides as a result of our collective efforts.

We have changed the way we do business over the past decade, principally to address terrorism. But the question remains: Where does the FBI need to be down the road?

National security remains our top priority. Terrorists remain committed to striking us here at home and abroad, as we saw just this week in New York with the attempted attack on the Federal Reserve, and as evidenced by the death of Ambassador Chris Stevens and three other Americans in Libya several weeks ago.

At the same time, spies seek our state secrets and our trade secrets for military and competitive advantages. And most particularly, cyber criminals now sit silently on our networks, stealing

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*Robert S. Mueller, III*

information for sale to the highest bidder. Computer intrusions and network attacks are becoming more commonplace, more dangerous and more sophisticated. That is why we are strengthening our cyber capabilities in the same way we increased our intelligence and national security capabilities in the wake of the September 11 attacks.

We are enhancing our Cyber Division's investigative capacity. We are hiring more computer scientists, and because even traditional crime is now facilitated through the use of computers, we are building the cyber capabilities of all FBI agents. We are converting computer intrusion squads in our fifty-six field offices into Cyber Task Forces that include state and local law enforcement, as well as other federal agencies. And we are increasing the size and the scope of the National Cyber Investigative Joint Task Force, a task force that brings together eighteen separate agencies to coordinate and share cyber threat information.

We are also working closely with our international partners, sharing information and coordinating investigations. We have agents embedded in police departments in Romania, Estonia, Ukraine and the Netherlands, just to mention a few. Yet at the same time, we face a wide range of criminal threats from white-collar crime and public corruption, to transnational criminal syndicates, migrating gangs and child predators. These threats are pervasive, and they will continue to evolve, largely as a result of globalization. *The New York Times* columnist Tom Friedman has argued, rather successfully, I might add, that the world is flat. Advances in technology, travel, commerce and communications have broken down barriers between nations and individuals.

And with the price of smart phones falling lower and lower and with the rise of social media like Facebook, YouTube and Twitter, our world is now hyper-connected. This hyper-connectivity is empowering and engaging individuals around the world. While Friedman describes the impact of globalization in the context of commerce and finance, globalization has affected law enforcement and the criminal justice system just as profoundly. For the FBI, this means that the work we do will almost always now have a global nexus, which presents a number of challenges. Technology has all but erased the borders that once confined crime and terrorism, and yet the traditional nation-state's jurisdictional boundaries remain the same, as do the individual criminal justice systems in these diverse nations. Given these constraints, we are often at a disadvantage in addressing global threats.

How do we prosecute a case where the crime has migrated from one country to the next, with victims around the world? How do we overcome jurisdictional hurdles and distinctions in the law from country to country?

As a prosecutor for the Department of Justice, I happened to work on the Pan Am [Flight] 103 bombing back in 1988, a time at which international terrorism was brought home to Americans in a profound way, and we were able to build bridges between the various investigative agencies here and Scotland and around the world. Partnerships like those forged in that investigation have never been more important. We have come to understand that working side by side is not the best option. It is the only option.

Let me turn for a second to an understanding not just of the threats that we face, because they will continue, and the potential damage that is



exponential. To successfully address these threats, we must develop new strategies and a legal framework to support these strategies.

We must always strike a balance between thwarting crime and terrorism on the one hand and ensuring that we adhere to the Constitution and the rule of law on the other hand.

The FBI has always adapted to meet new threats, and we must continue to evolve to prevent terrorist and criminal attacks, because terrorists and criminals certainly will evolve themselves. But our values, the Bureau's values, can never change.

In 1972, Justice Powell wrote the majority opinion in *United States v. U.S. District Court*, an opinion that established the warrant requirement for domestic electronic surveillance. And the crux of the case was, as Powell put it, the "duty of government to protect the domestic security and the potential danger posed by unreasonable surveillance to individual privacy and free expression." Justice Powell recognized that the rule of law is the only protection we have against the specter of oppression and undue influence at every level of government. We in the FBI recognize that principle as well. Strict adherence to the rule of law is at the heart of everything we do. In a practice started by my predecessor, Louis Freeh, all new agents visit the Holocaust Museum in Washington to better understand what happens when law enforcement becomes a tool of oppression, or worse, rather than an organization guided by the rule of law.

Every FBI employee takes an oath promising to uphold the rule of law and the United States Constitution. It is the very same oath that each of you have taken. For us, as for you, these are not mere words. They set the expectations for our behavior and the standard for the work that we do.

In my remarks to new agents upon their graduation from the FBI Academy, I try to impress upon each one the importance of the rule of law. I tell them it is not enough to catch the criminal; we must do so while upholding their civil rights. It is not enough to stop the terrorists; we must do so while maintaining his civil liberties. It is not enough to prevent foreign countries from stealing our secrets; we must do so while upholding the rule of law. It is not a question of conflict; it is a question of balance. The rule of law, civil liberties, civil rights. These are not our burdens. These are what make all of us safer and stronger.

In a 1976 meeting of the American Bar Association, Justice Powell said, "*Equal Justice Under Law* is not merely a caption on the facade of the Supreme Court. It is perhaps the most inspiring ideal of our society. It is one of the ends under which our entire legal system exists."

Justice Powell made the rule of law his life's work, and our system of jurisprudence is stronger because of his unwavering commitment. As citizens, we are more secure because of his longstanding dedication to this ideal.

*To read previous Lewis F. Powell, Jr. Lectures, please refer to the College website, [www.actl.com](http://www.actl.com). ■*

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*Director Mueller*