

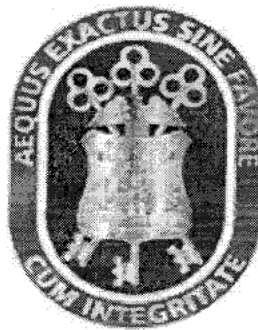
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**INSPECTION DIVISION  
OFFICE OF INSPECTIONS**



**INSPECTOR'S REPORT**

**A REVIEW OF ALLEGATIONS OF WITNESS TAMPERING  
AGAINST THE FBI IN A CIVIL ACTION AT THE UNITED  
STATES DISTRICT COURT FOR THE DISTRICT OF UTAH**



A handwritten signature in black ink, appearing to be "Nancy McNamara", is written over a horizontal line.

**Nancy McNamara  
Assistant Director  
Inspection Division**

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I. EXECUTIVE SUMMARY

(U//FOUO) A federal district court judge ordered the FBI to investigate an allegation of witness tampering raised at the trial of Trentadue v. FBI, 08-CV-0788 (District of Utah), a Freedom of Information Act (FOIA) civil action. The INSD was tasked by the Deputy Director to conduct that investigation. The plaintiff, Jesse Trentadue, an attorney, is pursuing a theory the FBI knew in advance of Timothy McVeigh's intent to commit the Oklahoma City bombing and sought to cover up documentary and video evidence in its possession. The action was originally brought against the CIA in 2008. Subsequently, the FBI was added as a defendant in the civil action, based on a separate FOIA request seeking tapes and documents related to the Oklahoma City bombing. The CIA obtained summary judgment ending the case against them. The FBI similarly attempted to obtain summary judgment based on the argument that it had conducted a reasonable search for responsive records and had provided Trentadue with all responsive tapes and documents found through that search. The court denied the FBI's motion and held a trial on the adequacy of the search.

(U//FOUO) Trentadue identified John Matthews as a witness at trial on the theory Matthews had been an FBI informant and part of an undercover operation which attempted to insert personnel into Domestic Terrorism groups to incite violence. On 11/04/2013, Trentadue requested Matthews testify at the trial. On 07/08/2014, Roger Charles, Trentadue's investigator, contacted Matthews and said Trentadue had scheduled him to testify as a witness. Trentadue later reported to the court Matthews refused to testify on his behalf because the FBI had approached Matthews and "strongly suggested he not testify." According to Trentadue, the FBI had threatened there would be consequences if Matthews testified.

(U//FOUO) The INSD determined that following Trentadue's contact with Matthews to inform him he was scheduled to testify, Matthews subsequently contacted the Salt Lake City Division (Salt Lake City) to advise the FBI of his desire not to testify. SA Adam Quirk, the Duty Agent that day, spoke with Matthews and had several follow up conversations with him in the days following Matthews' initial call to Salt Lake City. On 07/31/2014, Trentadue asserted to the court the FBI threatened Matthews to keep him from testifying and that SA Quirk had initiated the contact with Matthews.

(U//FOUO) Following these allegations, Matthews sent an e-mail to DOJ counsel, Trentadue, and the court on 08/02/2014, which stated no one from the FBI or DOJ made any threats against him. The e-mail further stated Matthews had contacted Salt Lake City at the suggestion of Don Jarrett, a friend who was a retired FBI Agent.

(U//FOUO) Following review of Trentadue's allegations, the court ordered the FBI to conduct an investigation of the witness tampering allegations and to report formally to the court on its findings. The court also inquired as to why SA Quirk did not notify DOJ counsel regarding his contact with Matthews. As a result, INSD initiated an inquiry into the allegations of witness tampering, and determined through interviews and a review of recorded telephone calls between Matthews and SA Quirk that SA Quirk was unfamiliar with Trentadue's pending FOIA civil action and made no statements indicative of any attempts to intimidate or discourage Matthews from testifying. Further, in an interview with the INSD, Matthews reiterated

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unequivocally his decision not to testify was in no way the product of threats or influence by the FBI.

**II. SCOPE AND METHODOLOGY**

(U//FOUO) INSD assessed the circumstances leading up to Matthew's decision not to testify. In addition to the above interviews, areas of inquiry included a review of the phone calls placed by Matthews to Salt Lake City, which were recorded; as well as SA Quirk's cellular telephone records which showed one call from SA Quirk's phone to Matthews. Additionally, INSD reviewed e-mails provided by Jarrett and Matthews and records provided by Matthews of his own cellular telephone calls.

**III. ASSESSMENT OF EVENTS**

**Background**

(U//FOUO) The underlying civil action is a Freedom of Information Act (FOIA) case. The case originally was brought against the CIA in 2008, in connection with FOIA requests Trentadue submitted to the CIA. Subsequently, Trentadue added the FBI as a defendant based on a separate FOIA request to the FBI seeking tapes and documents related to the Oklahoma City bombing. The government is represented by two attorneys from DOJ. The CIA obtained summary judgment ending the case against them. The FBI tried to do the same but the district court found the FBI's submissions insufficient. Specifically, the court found affidavits from RMD SC David M. Hardy insufficient to explain the FBI's search for responsive records. Trentadue is pursuing a theory the FBI knew in advance of Timothy McVeigh's intent to commit the Oklahoma City bombing and is continuing to cover up documents and video, possibly even of the bombing itself, because they would reveal advance knowledge by the FBI. He also believes the FBI may have had an informant in the rented van with McVeigh.

(U//FOUO) In making his witness tampering allegations, for which the court scheduled a hearing, Trentadue alleged Matthews was an FBI informant (although Trentadue referred to him as a UCE) during the 1980s and 1990s attached to OPERATION PATCON (Patriot Conspiracy), the objective of which Trentadue alleged was to insert UCEs into DT groups. According to Trentadue, Matthews would testify, in support of Trentadue's allegations, that the goal was also to incite violence among those groups. Trentadue asserted the FBI threatened Matthews to keep him from testifying as part of a cover-up which included hiding the evidence Trentadue was seeking. Matthews sent an e-mail on 08/02/2014 to the court and all parties which stated no one had ever threatened him and he had no knowledge of the Oklahoma City bombing. Trentadue then moved the court to cancel the scheduled hearing as unnecessary. However, he subsequently filed a sworn declaration asserting he and Charles previously spoke to Matthews and were each told about the threats made to keep him from testifying. Trentadue also alleged Jarrett assisted in convincing Matthews not to testify, although he did not specify how he believed this occurred. Additionally, Trentadue contended SA Quirk threatened revocation of Matthews' veterans and disability benefits if he were to testify. Charles also filed a sworn declaration which said Matthews complained to Charles about a threat to cut off Matthews' veterans' benefits made by the FBI and a suspicion by Matthews that the FBI had cut off his phone and Internet service. Trentadue then requested that the witness tampering hearing be expanded to include other witnesses.

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Review of Audiotape and E-Mail Evidence

(U//FOUO) During July 2014, Salt Lake City utilized ENGAGE, a telephone recording server, to record incoming calls on the field office phone lines. A search of Salt Lake City's telephone database indicated a total of five incoming calls from phone numbers subscribed to by Matthews. These calls were received on 07/09/2014; 07/10/2014; 07/14/2014 (two calls); and 07/15/2014. A search of SA Quirk's cellular telephone records showed one four minute phone call placed to Matthews' cellular telephone on 07/14/2014. A review of the 07/09/2014 call demonstrated Matthews initiated contact and never previously spoke to or knew of SA Quirk. In fact, prior to being connected to SA Quirk, Matthews introduced himself to the Salt Lake City operator as follows:

MATTHEWS: Hey, I was told to give you a call, maybe you can help me.  
How's that sound? Uh, my name's John Matthews [REDACTED]  
[REDACTED] Okay?

OPERATOR: Okay.

MATTHEWS: And you guys have a--a trial coming up in Salt Lake City here startin' on the, uh, 28<sup>th</sup> of July for the, uh, the missing tapes for the Oklahoma City bombing.

OPERATOR: Okay.

MATTHEWS: Okay? And the other side is trying to get me to testify and I don't want to testify [laughing].

OPERATOR: Mmm-hmm.

MATTHEWS: And so I was told—I was given advice [REDACTED] that I should maybe call you people and let you people know that, uh, I'm not gonna show up unless I'm handed a subpoena, I'm not showin' up—

OPERATOR: Okay.

MATTHEWS: --and I'm not testifying [laughs].

OPERATOR: Okay. Let me send you to an Agent, okay?

MATTHEWS: Okay, thank you [laughs].

OPERATOR: I thought that was all done and over with.

MATTHEWS: Oh yeah, yeah, so didn't I [laughs]. You know, and I--I just talked to [REDACTED] you know, he's back East, and I said, 'You know what? I had this attorney call me, and I said, "I ain't goin."' [Laughs] I said, 'Unless that judge issues a subpoena, I ain't goin.'

OPERATOR: Yeah.

MATTHEWS: And if I do go I don't recall anything.

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OPERATOR: Yeah.

MATTHEWS: [Laughs]

OPERATOR: 'My mind's blank, Judge.'

MATTHEWS: [Laughs] Been a lot of years.

OPERATOR: Yeah. Okay, here you go, sir.

MATTHEWS: Thank you.

Matthews was then transferred to SA Quirk and the conversation proceeded as follows:

[Ringing]

SA QUIRK: This is Adam.

MATTHEWS: Hey, Adam, how you doin' today?

SA QUIRK: How are you?

MATTHEWS: Good. Hey, my name's John Matthews, okay?

SA QUIRK: Hey, John. What's goin' on?

MATTHEWS: I'll kinda go through the story with you [laughs].

SA QUIRK: Uh-huh.

MATTHEWS: And, uh, they have a trial startin' on the 28<sup>th</sup> of July there in Salt Lake City on the missing tapes of the Oklahoma City bombing?

SA QUIRK: Uh-huh.

MATTHEWS: And I was given a call this mornin' and was bein' told that I was bein' put on a witness list, not by the FBI but by the other side?

SA QUIRK: Mmm-hmm.

MATTHEWS: And, I ain't goin' and I ain't sayin' nothing unless somebody issues me a subpoena.

SA QUIRK: That's fine.

MATTHEWS: Okay? Well, I'm just trying—you know, I'm trying to touch bases with you people because--I guess--because I was told that it was argued in court--I guess--Monday for two hours by the FBI trying to keep me off the witness list. And the judge ruled that I could be on the list. And—

SA QUIRK: So what, uh, what's your name again?

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MATTHEWS: John Matthews?

SA QUIRK: K.

MATTHEWS: I--I worked that Operation Patcon back in those years, back in the, uh, oh uh, late 80s, early 90s?

SA QUIRK: K. And what trial is this that's going to be starting?

MATTHEWS: What—what's now?

SA QUIRK: What trial's gonna be starting?

MATTHEWS: Uh, I guess, uh—I guess, uh—somebody's suing the government over the missing tapes from the Oklahoma City bombing?

SA QUIRK: And that's gonna start here in—

MATTHEWS: That--

SA QUIRK: --Salt Lake City?

MATTHEWS: Yeah, that trial's in Salt Lake City. And it starts on, uh, the 28<sup>th</sup> of July. And, uh, they were trying to get me to come into court on the 30<sup>th</sup> of July.

SA QUIRK: K. Uhh—do you know what judge it's before?

MATTHEWS: Uh, not offhand, no I don't. I'm sorry.

SA QUIRK: Okay. Um—and who contacted you?

MATTHEWS: Uh, Jesse Turell.

SA QUIRK: Who?

MATTHEWS: Uh, Jesse Turell. I think I'm pronouncing his last name right. He's an attorney there in Salt Lake City, he's the one that's suing the federal government.

SA QUIRK: K. All right, well—

MATTHEWS: I—I'm just trying to pass word because I talked to [REDACTED] this morning and he recommended that I call you people there in Salt Lake City.

SA QUIRK: Yeah, who is—who is [REDACTED]?

MATTHEWS: Uh, his name used to be Don Jarrett.

SA QUIRK: John Barrett?

MATTHEWS: John—Don. D-O-N—

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SA QUIRK: Where's he out of?

MATTHEWS: --Jarrett. Well, he was out of, uh, Phoenix but he's retired now.

SA QUIRK: All right, well, I mean--to show up in court they're going to have to send you a subpoena.

MATTHEWS: OK.

SA QUIRK: So—they can't just call you and tell you you need to be in court. That's not—that's not how it works.

MATTHEWS: Right. Right. And that's what I was telling Don, unless someone serves me a subpoena I'm not going to Salt Lake City.

SA QUIRK: Yeah.

MATTHEWS: Unless I'm served with a subpoena.

SA QUIRK: Yeah.

MATTHEWS: And I'm not testifyin' against the FBI. Is, uh, you know if—if—if—even if they haul my ass to Salt Lake City I'm gonna sit there on that stand and say I don't recall anything. That--

SA QUIRK: OK, well—

MATTHEWS: That's been many years ago. Yeah [laughs].

SA QUIRK: Well, uh, well, and that's fine and if that's—obviously you don't want to, um, determine that yourself or lie under oath, you just want to—argue it over the phone.

MATTHEWS: Yeah, I'm not--I'm not really doin' any, it's just, this is old stuff and it don't need to be brought up again.

SA QUIRK: You're right, and the—the bottom line is you have to—um, they have to serve you with a subpoena. So it doesn't sound like—it doesn't sound like that happened.

MATTHEWS: Okay, so—

SA QUIRK: I can try—I can try and find out um, who is—who this, um—who this attorney—where this is happening and what's going on.

MATTHEWS: Oh boy.

SA QUIRK: But, uh—what's your number, John?

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[MATTHEWS gave his home and cell phone numbers to SA Quirk]

MATTHEWS: But I just figured, whoever's handling it on your end; you could just pass the word on that I'm not showing up there and testifying unless somebody hands me a subpoena. Okay?

SA QUIRK: All right. Well, I don't—I don't know anything about it but I can definitely, uhh—

MATTHEWS: Look into it for me?

SA QUIRK: I'll look into it and find out. Then again, you don't have a subpoena and you can't, you know—they're required to give you a subpoena to testify. So that's all there is to it.

MATTHEWS: OK. Well, I just wanted to make sure everything's cool [laughs].

SA QUIRK: All right, man, well thanks for calling, I appreciate it, John.

MATTHEWS: Thank you, Adam.

SA QUIRK: Bye bye.

MATTHEWS: Bye bye.

(U//FOUO) In the second call, which took place on 07/10/2014 and was recorded, Matthews left a voicemail message for SA Quirk and stated he was looking to make sure SA Quirk had "pushed through" the information Matthews conveyed the day before.

(U//FOUO) The next call was placed by Matthews to Salt Lake City on 07/14/2014. After being transferred to SA Quirk, the following conversation took place:

SA QUIRK: This is Adam.

MATTHEWS: Hey Adam, this is John Matthews from Reno, Nevada.

SA QUIRK: Hi, how are you?

MATTHEWS: Not too bad. Hey, did you check into what we talked about the other day?

SA QUIRK: Umm, in what respect?

MATTHEWS: Oh, okay, it's that trial on the Oklahoma City bombing? That was--

SA QUIRK: Oh, yes, yes, okay, sorry. Um, I, yeah—I uhh, ran it by and nobody knew anything about it. So—

MATTHEWS: Okay.

SA QUIRK: Have they talked to you since?

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MATTHEWS: Yeah. It's Judge, uh, Clark W-A--

SA QUIRK: Waddoups? Waddoups.

MATTHEWS: Yeah. W-A-D-D-O--

SA QUIRK: Yeah. Yeah.

MATTHEWS: --U-P-S. Yeah.

SA QUIRK: Okay.

MATTHEWS: Yeah. Anyway, I guess they got the pre-trial tomorrow.

SA QUIRK: Okay.

MATTHEWS: And the trial starts the 28<sup>th</sup>.

SA QUIRK: Okay.

MATTHEWS: And, anyway I just had the call from the attorney up there.

SA QUIRK: Yeah?

MATTHEWS: And he was saying that he's asking the judge tomorrow for me to maybe testify by video camera because they feel like I'm a high risk person to have in that courtroom.

SA QUIRK: All right.

MATTHEWS: And it's like I told you: If—and—if no one hands me a subpoena, I ain't showin' up.

SA QUIRK: Yeah, well I don't understand how you can testify without being—receiving a subpoena.

MATTHEWS: Right, right, that's what I'm gettin' at.

SA QUIRK: Okay.

MATTHEWS: And so, I'm just trying to pa—you know, I'm going by what [redacted] told me.

SA QUIRK: Yeah—

MATTHEWS: Okay.

SA QUIRK: Let me—

MATTHEWS: And I'm trying to pass things on with you so we can—

SA QUIRK: Yeah, yeah.

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MATTHEWS: --figure this out.

SA QUIRK: Okay.

MATTHEWS: Okay—

SA QUIRK: Let me, uh, well—if the judge decides—we'll have to see. Waddoups is the worst judge. Uhh—

MATTHEWS: I figured somebody from the FBI must be workin' with the judge. There must be an attorney or somethin' that's besides—

SA QUIRK: Yeah, I'm not exactly sure. Let me, uhh—let me figure out—what's the best—I'm driving right now, I'm doing surveillance.

MATTHEWS: Oh, I'm sorry.

SA QUIRK: No, it's okay. You don't have to be sorry. I'll tell you what: Can you give me a call a little bit later?

MATTHEWS: Okay.

SA QUIRK: And I can, uh, I can figure out kinda what's—what's going on.

MATTHEWS: Okay. So call you, like about three your time? Four?

SA QUIRK: Yeah, that would be good.

MATTHEWS: Okay, and you're at 12:30 right now?

SA QUIRK: Uhh, it's actually 1:30.

MATTHEWS: Okay, so I'll give you a call back around three-ish your time. All right?

SA QUIRK: That'd be great.

MATTHEWS: All right.

SA QUIRK: Thank you.

MATTHEWS: Thanks.

SA QUIRK: Bye.

(U//FOUO) A call from Matthews later that afternoon was recorded as he left SA Quirk a voicemail and requested a call back. A subsequent unrecorded four minute phone call was placed from SA Quirk's cell phone to Matthews' phone. According to INSD's interview of SA Quirk, during this call Matthews repeated the same things he had said in the other calls about his desire and intention not to testify and SA Quirk responded in a manner similar to the previous phone calls. SA Quirk also told Matthews to get him contact information for the attorney who was asking him to testify.

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(U//FOUO) A review of the recording of the final call between Matthews and SA Quirk, which took place the following day showed no attempt by SA Quirk to influence Matthews' participation in any court proceedings. After Matthews provided SA Quirk with Trentadue's contact information, the following exchange took place:

SA QUIRK: And then, so that's the defense attorney.

MATTHEWS: Uh, he's yeah—he's the—he's the attorney who's suing the--the federal government.

SA QUIRK: Gotcha. OK.

MATTHEWS: And, you know, just—just between you and me is, you know, I—he wants me to testify, I don't want to testify. And, you know, just so everybody's in agreement, as you know it is, I got nothing to say [laughs]. Does that make sense what I'm trying to say here?

SA QUIRK: Yeah. It does.

MATTHEWS: And—

SA QUIRK: Uhh—

MATTHEWS: Why they're trying to pull me into this, I have no idea. And you know, I'm—I'll just leave it at that. OK?

SA QUIRK: That's fine. Yeah. Now do you have—do you have an attorney, John, or no?

MATTHEWS: No. No, I don't have an attorney.

SA QUIRK: OK.

MATTHEWS: And uh, I've tried—I've tried staying out of this for a while. Newsweek did a story on me back in 2011—

SA QUIRK: Oh, they did?

MATTHEWS: Yeah, and since then I've kind of stayed out of the picture. I have nothing to do with the Oklahoma City bombing. Never have. I--I met Timothy McVeigh years ago someplace else and that—

SA QUIRK: OK.

MATTHEWS: --and that was before, before the bombing was even talked about. You understand what I'm saying?

SA QUIRK: Uh-huh. Yeah.

MATTHEWS: And, uh, just because I crossed someone's path don't mean I have anything to share.

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SA QUIRK: Well, yeah and I mean worst case scenario even if you testified you can just—you can just say you have, you know—you have nothing to say. I mean, this lawyer—does this lawyer know?

MATTHEWS: Pardon?

SA QUIRK: Does this lawyer know? I mean, have you told him: 'Look, I've got nothing to testify to.'

MATTHEWS: Yeah, I've—I've—I've basically beaten around the bush with him that I don't want any part of this and—

SA QUIRK: Yep.

MATTHEWS: You know. And he's just pushin' on like I should have something to do with it. And I don't want nothin' to do with it and I feel like that's my choice, you know?

SA QUIRK: Yeah, I hear you.

MATTHEWS: And when I talk to my—Don Jarrett, [REDACTED]  
He's retired now, but—

SA QUIRK: Yeah.

MATTHEWS: --but, like when I talked to him, he says, 'You know what? Seeing those guys just argued in court with the FBI to keep you out of this,' he says, 'You ought to call to Salt Lake City to let them know you don't want to testify.'

SA QUIRK: Yeah.

MATTHEWS: And he says, 'That way, they're in the loop and they know--'

SA QUIRK: Yeah.

MATTHEWS: '—you don't want no part of this.' [Laughs]

SA QUIRK: Yeah, I'll let 'em know, um, I'll let our Chief Division Counsel know because they'll—I'm not an attorney but they can—they have a hell of a lot more, uh, authority than I do.

MATTHEWS: Right, right.

SA QUIRK: And if, like you want nothing to do with this you should have nothing to do with it. That's—

MATTHEWS: Right.

SA QUIRK: --you know, plain and simple.

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MATTHEWS: And you know, I'm—I'm just gonna take a trip and I ain't gonna worry about nothin'. [Laughs]

SA QUIRK: No, I hear you. That's fine.

MATTHEWS: OK [still laughing].

SA QUIRK: That's fine, fuck 'em, right? All right.

MATTHEWS: If you ever need anything, give me a yell.

SA QUIRK: I will, thanks a lot.

MATTHEWS: All right. Bye bye.

SA QUIRK: Bye.

(U//FOUO) INSD reviewed e-mail communications provided by Jarrett and Matthews. In addition to the 08/02/2014 e-mail sent by Matthews to all parties and the court which clarified it was his decision not to testify, additional e-mails made clear no one had influenced Matthews. It did appear, prior to 08/02/2014, Matthews had left Trentadue and Charles with the impression he might be willing to testify voluntarily. However, Matthews never communicated anything related to threats or intimidation. The following e-mails were observed:

- On 11/04/2013, an e-mail from Trentadue to Matthews stated, "*John: Need a favor. If necessary would you mind if I listed you as a possible witness in a FOIA case in federal court here in Salt Lake [City]. I am suing to obtain videotapes [from] surveillance cameras in the Murrah Building showing who delivered the bomb. FBI says that it cannot find those tapes. If I called you, would cover your expenses and have you testify about PATCO, McVeigh and your knowledge of FBI records.*"
- On 07/05/2014, Matthews e-mailed Charles and expressed concern Trentadue had not been in touch for a while. Charles wrote back and said Trentadue was extremely busy but would remind him to call.
- Between 07/08/2014 and 08/01/2014, Trentadue and Charles sent Matthews regular e-mails with updates from the trial and re-stated their intentions to have him testify. Matthews did not inform them he had decided not to testify.
- On 07/16/2014, Matthews e-mailed Trentadue and Charles and advised them: "*Hey so you guys know. Bear with me. I am using my laptop at work. My house phone quit working Fri. ATT says it will be up and running on the 19<sup>th</sup>. My Internet is down too. It is suppose[d] to be up.*" Matthews never suggested the FBI or anyone else was responsible for the outage. One minute later, Trentadue responded with an e-mail to Matthews and Charles in which he stated, "*As Granny used to say: Ain't no setch thang as a coincidence.*" Then, in Trentadue's sworn declaration to the court, dated 08/08/2014, Trentadue asserted under penalty of perjury: "*On July 16, 2014, Mr. Matthews e-mailed both Mr. Charles and me to let us know that he had suddenly lost both his home Internet connection and home telephone. He suspected the FBI was*

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*behind both of these events because he was going to testify in this case.” (Trentadue declaration ¶ 16)<sup>1</sup>.*

- On 07/31/2014, an e-mail from Matthews to Jarrett stated: *“This whole thing with the court has taken a spin for the worst. They are saying things that I have never said. They are using just the parts that they want. Like you know I called the FBI in SLC. They did not call me.”* The e-mail further stated Matthews had *“been put under the bus”* and the judge had called for a hearing, at which Matthews said he *“will tell the truth and tell them that it was me not the FBI.”*
- On 08/02/2014, an e-mail from Jarrett to Matthews stated, in pertinent part, *“ . . . I think your last e-mail should clear things up. As we both know . . . , you had nothing to do in anyway [sic], shape, form or manner with the Oklahoma City Bomb investigation.”*
- In an 08/03/2014 e-mail, Matthews advised Jarrett the court hearing had been called off and said, *“Maybe now they will leave me alone.”*

## IV. INTERVIEW RESULTS

SA Adam Quirk

(U//FOUO) On 07/09/2014, while serving on complaint duty at Salt Lake City, SA Quirk was transferred a call from Matthews, with whom SA Quirk had never previously spoken. At the time of this call, SA Quirk knew nothing about Matthews or the ongoing Oklahoma City bombing-related FOIA trial taking place at the United States District Court for the District of Utah.

(U//FOUO) Matthews told SA Quirk he [REDACTED] had been contacted by an attorney who wanted him to testify at the aforementioned trial. Matthews said he had no intention of testifying and had been advised by Jarrett to contact Salt Lake City. Matthews said he had not been served with a subpoena and believed this meant he did not have to testify. SA Quirk generally agreed with this proposition but did not tell or suggest to Matthews he should refrain from testifying. SA Quirk did not know of Matthews’ veterans status and did not threaten to take Matthews’ benefits away if he testified, nor did he express any form of threat to Matthews.

(U//FOUO) SA Quirk spoke to Matthews three or four more times in order to get information on the case, judge and attorneys. All of these calls were placed to SA Quirk by Matthews except for one, in which SA Quirk briefly called Matthews to get additional information on the pending case. SA Quirk said during this unrecorded call, Matthews reiterated his desire not to testify and SA Quirk responded in a manner similar to the previous phone calls. After the phone conversations with Matthews, SA Quirk contacted his supervisor, SSA Donald R. Schultz, who advised SA Quirk to speak to SA Gregory S. Rogers, as SA Rogers was fluent in the facts of the Oklahoma City Bombing investigation. SA Rogers then provided SA Quirk with background information on the years of litigation between Trentadue and the government.

<sup>1</sup> The cited declaration from Trentadue, filed 08/08/2014, was included as an Appendix to this Report.

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(U//FOUO) SA Quirk advised INSD most of the questions he asked of Matthews were designed to evaluate Matthews' credibility, as SA Quirk knew nothing about the existence of the court case and sought to determine whether Matthews was a legitimate caller. To the extent Matthews thought SA Quirk would provide any notification to the court or parties, SA Quirk said it was the result of a miscommunication, as SA Quirk never intended to contact the court or Trentadue to determine whether Matthews was being actively sought as a witness. Despite the conversations he had with Matthews, SA Quirk acknowledged he did not advise his CDC of the phone calls, nor did he contact DOJ. The first time SA Quirk learned the court case actually existed was when a story appeared in the newspaper and almost immediately thereafter his CDC contacted him upon receiving an inquiry from DOJ.

(U//FOUO) During the INSD interview of SA Quirk, he said he had been concerned Matthews' intention was to try and get the FBI to state he did not have to testify in court.

**John Matthews**

(U//FOUO) Matthews met Trentadue in 2011 in Salt Lake City. At the time, Matthews read about Trentadue's willingness to take on the government [REDACTED]

[REDACTED] The two met one time in person for a little over an hour. Then, they continued to speak sporadically over the phone and corresponded by e-mail about matters related to the Oklahoma City bombing. Trentadue introduced Matthews to his investigator, Charles. Matthews also communicated with Charles about matters related to the Oklahoma City bombing by phone and e-mail but never met him in person. On 11/04/2013, Trentadue asked Matthews if he would be willing to testify at a hearing regarding the Oklahoma City bombing. Matthews told Trentadue he would get back to him.

(U//FOUO) Matthews advised INSD he never intended to testify as a witness in the pending FOIA trial. His aversion was based mainly on his lack of desire to discuss matters from the past, as well as his uncertainty of what Trentadue would ask him in court. Matthews also felt he had no relevant information to provide on the Oklahoma City bombing.

(U//FOUO) On 07/16/2014, Matthews e-mailed Trentadue and advised Matthews' home phone and Internet service was down. Matthews did not mention in this e-mail his decision not to testify. This was because Trentadue had promised to call him on the phone and never did. Matthews said he lost trust in Trentadue and Charles and felt they were trying to use him and it was not right.

(U//FOUO) Matthews stated unequivocally his decision not to testify was in no way the product of threats or influence by the FBI or anyone else. Matthews contacted the FBI on his own initiative based on the recommendation of Jarrett. Matthews said even prior to calling Jarrett, he had no intention of testifying. While nothing communicated to Matthews by SA Quirk affected his decision, Matthews was relying on SA Quirk to advise the court of Matthews' decision not to testify. When Matthews read about the case in the media and learned there were allegations he had been threatened by the FBI, he realized no one had notified the court of his decision not to testify and so he sent an e-mail on 08/02/2014 to the court and all parties to advise them accordingly and make clear he had not been threatened by anyone and the choice not to testify was made of his own free will.

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(U//FOUO) INSD showed Matthews the sworn declarations Trentadue and Charles had filed in court on 08/07/2014 and 08/08/2014, respectively. He had already seen part of Trentadue's declaration online. After reviewing them, Matthews said many of the assertions in the declarations were inaccurate. Specifically, with respect to the Trentadue declaration<sup>2</sup>:

- Matthews was never told by Trentadue he could not be subpoenaed (see ¶ 12).
- Matthews never expressed any concerns about his personal safety, nor did he have any (see ¶ 14).
- Matthews did not believe the FBI was responsible for the loss of his phone and Internet service and never told Trentadue or Charles he thought the FBI was responsible (see ¶ 16).
- The FBI never threatened to interfere with or take away Matthews' veterans' benefits and Matthews never told Trentadue or Charles he had received any threat to his benefits (see ¶ 18).
- Matthews never said, "exposing the fact that he had been threatened by the FBI would be 'good insurance' against any future retaliation against him from the Bureau" (see ¶ 20).
- Matthews never told Trentadue SA Quirk initiated contact with Matthews. On the contrary, it was Matthews who called Salt Lake City and wound up speaking to SA Quirk. Trentadue's entire description of the matter was incorrect and did not represent anything Matthews told him (see ¶ 21).
- SA Quirk never told Matthews to take a vacation in order to avoid being served by subpoena. Moreover, Matthews never told Trentadue he had taken any comments by SA Quirk as a threat (see ¶ 22).

(U//FOUO) Matthews said the following assertions in Charles' sworn declaration were inaccurate<sup>3</sup>:

- Matthews never told Charles he suspected the FBI was behind the loss of his home Internet and telephone connection (see ¶ 3).
- Matthews never told Charles anyone from the FBI told Matthews to "stand down" (see ¶ 8).
- Matthews never told Charles "the 'Bureau' had made it very clear to him that if he did testify it could result in the loss of his Veteran's health coverage, and Veteran's disability pension" (see ¶ 8).

**Don Jarrett**

(U//FOUO) Jarrett first met Matthews in 1992 while Jarrett was serving as an Agent in the Phoenix Division. Jarrett last saw Matthews in 1996 or 1997. He believed he spoke with him eight or nine times by phone since 2002. Until Matthews contacted him regarding the FOIA case, his last contact with Matthews was during 2012.

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<sup>2</sup> The citations refer to paragraph numbers from the sworn declaration filed by Trentadue on 08/08/2014 which was included as an Appendix to this Report.

<sup>3</sup> The citations refer to paragraph numbers from the sworn declaration filed by Charles on 08/07/2014 which was included as an Appendix to this Report.

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(U//FOUO) On 07/08/2014, Matthews called Jarrett and said he was asked to testify in court in Salt Lake City but had no knowledge of the Oklahoma City bombing. Jarrett advised Matthews to call FBI Salt Lake City and speak to an attorney there to make them aware of the situation. Subsequently, Matthews e-mailed Jarrett and said he had spoken to the FBI Office and was advised an Agent there would “pass it along.” On a later date, Matthews copied Jarrett on another e-mail explaining he was not going to testify. This e-mail was sent to at least one DOJ recipient.

(U//FOUO) Jarrett never advised, encouraged or directed Matthews not to testify, although Jarrett did acknowledge Matthews had nothing to do with the Oklahoma City bombing case and could not possibly have any relevant evidence to offer at the FOIA trial. Jarrett did not speak with anyone about Matthews or the trial prior to his phone call with Matthews. Other than the phone call and e-mails with Matthews, Jarrett did not speak to anyone about Matthews or the possibility of him testifying. Jarrett did not speak to anyone from the FBI or the government about the case other than his interview with INSD.

**V. POST INVESTIGATION ANALYSIS**

(U//FOUO) INSD conducted this review pursuant to the district court’s order that the FBI investigate whether any intimidation or undue influence of Matthews occurred by or on behalf of the FBI. A review of all available evidence and logical investigation associated therewith disclosed no indication of any attempt to prevent or even dissuade Matthews from testifying. Additionally, INSD’s review determined Matthews previously led Trentadue and Charles to believe he might be willing to testify, but he was never served with a subpoena<sup>4</sup>, ultimately decided not to testify, and his decision in this regard was his own.

(U//FOUO) While Trentadue asked Matthews to be a witness on 11/04/2013, INSD noted Matthews first expressed his desire not to testify on 07/08/2014 to Jarrett, who functioned as a friend and advisor to Matthews. Although Jarrett was a retired Agent, he acted as neither an agent nor intermediary of the FBI or the government, as evidenced by his lack of any communication whatsoever with any government official, either before or after Matthews contacted him. This timeline of Matthews’ decision not to testify was corroborated by Salt Lake City’s incoming telephone records, which showed the first call received from Matthews’ phone number was on 07/09/2014, one day after Jarrett stated Matthews had contacted him. It is further corroborated by the recording of the 07/09/2014 call between Matthews and SA Quirk, wherein Matthews introduced himself to SA Quirk and attributed his decision to call the FBI to Jarrett.

(U//FOUO) Significantly, when the court ordered the government to investigate Trentadue’s allegation SA Quirk may have committed witness tampering by repeatedly calling Matthews, Trentadue said,

“Your Honor, it’s a simple matter. As I say, they should produce the phone records too. If in fact it shows that Mr. Matthews was calling him [SA Quirk], that’s a different story,

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<sup>4</sup> Pursuant to the Federal Rules of Civil Procedure (FRCP), Matthews could not have been served a subpoena in Reno, Nevada and commanded to testify at the district court in Salt Lake City. FRCP 45(c)(1)(A) would only have permitted service within the State of Utah or within 100 miles of the courthouse but would have allowed for service of a subpoena requiring Matthews to appear at a location within 100 miles of his residence or place of employment.

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but if in fact it shows the agent repeatedly calling Mr. Matthews, that's the smoking gun" (trial transcript, p. 745)<sup>5</sup>.

Phone records indicated five calls were placed to Salt Lake City by phone numbers attributed to Matthews from 07/09/2014-07/15/2014, all of which were recorded. While one unrecorded four minute phone call from SA Quirk's cellular telephone to Matthews took place on 07/14/2014, the consistent tone of the final call between the two on 07/15/2014 belied any possibility Matthews felt threatened or acted contrary to his own wishes.

(U//FOUO) Furthermore, INSD's review of all the recorded calls between Matthews and SA Quirk indicated SA Quirk was unfamiliar with the pending FOIA case and made no statements indicative of any attempt to intimidate or discourage Matthews from testifying. On the contrary, throughout the recorded conversations between the two, Matthews was insistent on his intention not to testify. While SA Quirk should have made clearer the FBI could not provide advice on Matthews' status as a witness, the recorded calls established there were no attempts by SA Quirk to intimidate Matthews. Also, the idea of taking a trip during the trial dates was Matthews' alone. This was corroborated by INSD's interviews of Matthews as well as Matthews' statements on the recorded calls with SA Quirk.

(U//FOUO) Notably, there were repeated false statements made by Trentadue in open court and in sworn declarations by Trentadue and Charles.

(U//FOUO) The court ordered the instant investigation based on representations made on the record by Trentadue. On 07/31/2014, Trentadue stated to the court,

"Mr. Matthews was not subpoenaed. He was going to voluntarily testify. I spoke with Mr. Matthews this morning. He says after the government lost their motion in limine to keep him from testifying about the middle of the month, he was contacted. It was suggested to him it would be best for everyone if he didn't testify; it was suggested to him that he take a vacation; it was suggested to him that if he did testify, he should have a bad case of 'I don't remembers;' and from his work with the FBI undercover he informed me that he took that as a very serious threat" (trial transcript, p. 741)<sup>6</sup>.

(U//FOUO) On 08/02/2014, Matthews wrote to the court to advise he had never been threatened by the FBI or DOJ. He reasserted the same when he was interviewed by INSD on 10/06/2014 and said he never made any such statements to Trentadue or Charles. The above misrepresentation by Trentadue to the court was aggravated by the 08/08/2014 declaration of Trentadue, during which he swore under penalty of perjury Matthews had sent an e-mail to Trentadue and Charles on 07/16/2014 wherein Matthews said he suspected the FBI of cutting off his phone and Internet service. INSD is in possession of this e-mail and it contains no such accusation by Matthews, nor any statement which could be so construed. Moreover, INSD's interview of Matthews revealed several additional statements attributed to Matthews and sworn to under penalty of perjury by Trentadue or Charles, all of which Matthews stated were false. These were summarized on p. 17, supra.

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<sup>5</sup> The relevant portion of the trial transcript was included as an Appendix to this Report.

<sup>6</sup> The relevant portion of the trial transcript was included as an Appendix to this Report.

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(U//FOUO) In conclusion, the INSD investigation definitively established no witness tampering or undue influence on the part of the FBI or anyone acting on behalf of the FBI. The investigation further demonstrated strong evidence of false and misleading statements made to the court by and on behalf of Trentadue.

**VI. OBSERVATIONS**

(U//FOUO) **Observation 1:** Salt Lake City did not notify DOJ upon receiving information affecting an ongoing judicial proceeding.

(U//FOUO) **Analysis 1:** INSD's review of the calls placed to the Salt Lake City Duty Agent by Matthews revealed Matthews repeatedly stated he was a witness in a pending proceeding in which the United States was a party. However, despite advising Matthews the Duty Agent would notify the Salt Lake City CDC, no one did and the CDC did not find out about the calls until the matter had been reported in the media. DOJ and OGC were then forced to scramble in order to respond to witness tampering allegations made by their adversaries and entertained by the court.

(U//FOUO) **Recommendation 1:** SAC, Salt Lake City should instruct all employees to immediately refer to the CDC any incoming communication which appears pertinent to an ongoing, pending or completed legal proceeding.

(U//FOUO) **Observation 2:** Salt Lake City provided a response that could mistakenly have been construed as legal advice to a potential witness in an ongoing judicial proceeding.

(U//FOUO) **Analysis 2:** INSD's review of the calls placed to the Salt Lake City Duty Agent by Matthews revealed Matthews repeatedly stated he was wanted as a witness in a pending judicial proceeding and planned not to show up. Matthews further stated he might take a trip out of town so he would not be reachable during the dates his appearance in court was being sought. In response to these statements, the Duty Agent advised Matthews he did not have to go to court unless he had been served with a subpoena.

(U//FOUO) A central issue in the pending judicial proceeding became whether or not the Duty Agent intimidated or induced Matthews not to testify. The response provided to Matthews, even if technically correct, could have been misunderstood as the provision of legal advice. Also, in general, the legal concept of executive estoppel permits individuals or organizations to defend against criminal or civil charges on the grounds their conduct was approved of by a government official. Thus, the simple act of an FBI employee acquiescing to the stated intentions of a caller could cause an impediment to future legal action by the government.

(U//FOUO) **Recommendation 2:** SAC, Salt Lake City should instruct all employees to refrain from offering to the public anything which could be construed as legal advice and to seek approval from the CDC prior to speaking on any matter which might have legal implications.

(U//FOUO) **Observation 3:** Salt Lake City has not advised its employees the field office incoming phone lines are being recorded.

(U//FOUO) **Analysis 3:** During the course of the instant investigation, INSD noted neither the Duty Agent nor his supervisor were aware Salt Lake City had begun recording all

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incoming calls on the field office phone lines. While the recorded calls provided valuable evidence which established the Duty Agent did not intimidate a witness, there were isolated inappropriate comments by the Duty Agent and an operator. A best practice would be for all FBI employees to assume they are always being recorded when they speak to the public. Short of this, a notification to Salt Lake City employees of the recording function on the field office phone lines would likely prompt them to sufficiently scrutinize the manner in which they converse with callers.

(U//FOUO) **Recommendation 3:** SAC, Salt Lake City should advise all employees field office incoming phone lines are recorded.

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