

Former F.B.I. agent addresses civil liberties, investigation



Following her presentation at the First Congregational-UCC in Menomonie, Coleen Rowley, retired special agent of the Federal Bureau of Investigation in the Minnesota Division, spoke with Bob Swanson. Photo by Deb Anderson/Dunn County News

By Deb Anderson, Variety Editor

"Balancing civil liberties with the need for effective investigation" was the title of a presentation on Sunday, Jan. 23, at the First Congregational-UCC in Menomonie. Sponsored by the Unitarian Society of Menomonie, Coleen Rowley, a newly-retired special agent for the Federal Bureau of Investigation (F.B.I.) of the Minnesota Division, addressed a diverse audience of about 100 people ranging from private citizens to public figures, artisans to former area politicians.

Topics covered included the 9-11 Commission, the Patriot Act, the F.B.I., the Foreign Intelligence Surveillance Act (FISA), the Whistle Blower Act and the Freedom of Information Act.

Emphasizing that she was expressing her personal views, not those of the F.B.I., Rowley said, "I can appreciate not only the law enforcement perspective but how real or perceived threats and fear can easily result in authorities overreacting and endangering citizens' rights."

An excerpt from her letter to F.B.I. Director Robert Mueller III, published in the New York Times on March 6, 2003, states, "The balance between individuals' civil liberties and the need for effective investigation is hard to maintain even during so-called normal times, let alone times of increased terrorist threat or war. It is, admittedly, a difficult balancing act."

Trust and truth seem to be the crux of many issues. Concern about infringement of freedoms and lack of information is on the minds of many Americans. And the question exists of whether author George Orwell's "Big Brother" (government surveillance of every citizen) is becoming a reality since 9-11.

9-11 Commission

Rowley believes the 9-11 Commission misplaced its focus, zeroing in on if the terrorist attacks could have been prevented.

Accordingly, she says, "The effective fighting and preventing of terrorism is not a one-time, all or nothing, proposition, but is instead an ongoing, long-term process."

Stating there were "mistakes on every level," it is her contention that we all share the blame for the tragic attack of 9-11. And the easiest way to have stopped 9-11 she said would have been to "bolt the cockpit door."

"... Myriads of government actors ... whose intertwined mistakes, along with over-complacency on the part of the public, all played a role in allowing 9-11 to happen," she said.

However, she gives credit where she feels credit is due for beginning to fix the problems.

"But both the 9-11 Commission, and the Joint Intelligence Committee Inquiry which preceded it, have done a pretty good job of breaking through that blanket defense and unraveling most of the mistakes."

She said that much of the 9-11 Commission's findings "apply to the way things were three years and one large sea change ago, when the whole country was at 'green' ... It is not the commission's fault that it took so long for it to be formed and do its work, but it is unfortunate that its findings are so delayed time-wise because so much has happened in the meantime. Some of what has transpired has been good, ..."

Rowley further stated that "Lack of aggressiveness/pro-activeness in addressing terrorism, is no longer the problem!"

In fact, efforts in that direction may be excessive and caution may need to be applied.

"The pendulum may well, without more effective oversight, balance of individuals' civil and privacy rights and reduced secrecy, swing too far in the other direction. And a widely winging, over-correcting pendulum (which history has unfortunately documented all too often) will not serve anyone's interest ..."

Yet she also believes, "The process of prevention means staying a step ahead of the terrorists, not three years behind ... we really don't have the luxury of waiting years to get bi-partisan commissions so we can go back to our own drawing board to fix errors and do the job better."

Rowley further stated that she has grave reservations about the commission's recommendation to create a cabinet-level "intelligence czar." She feels that having all authority in the hands of one person could "politicize and corrupt" when for accuracy it "must produce completely independent and objective analysis."

With the creation of such a czar, she sees "... the danger of a cabinet-level spymaster in the White House quickly falling into the hip pocket of the president."

The Patriot Act

Of the 342-page Patriot Act and its 160 provisions, Rowley said, "You really can't be for or against it. How can you be for or against something that's 160 different things?"

Apparently, many provisions of the act were in the works before the onset of 9-11, specifically addressing ever-expanding electronic communication.

"Before 9-11, certain provisions were ready to go, but the law had not caught up," she said.

Rowley spoke at length on many of the provisions, including "sneak and peek" search warrants, request for business records, e-mail surveillance ("trap and trace registration"), and permission to share information with criminal investigations and prosecutors.

Objections raised by civil libertarians fearing First Amendment encroachment about these provisions can be easily countered, according to Rowley.

On information gathering, she said: "It's not 'Big Brother' as much as private [companies]." However, "First Amendment protection only extends to citizens and permanent residents."

FISA

With regard to searches under FISA, she said, there is a cloak of secrecy surrounding the appointed judges' decisions, and yet, the judges are "the first line of defense to prevent abuse of the process."

"No one ever learns of it and it's perpetual. It's always secret -- forever. The FISA law was designed for spies. When it got applied to terrorism, there was not much thought about why this had to go the same route."

"A terrorist is a mixture of intelligence, presenting a dilemma for law enforcement," said Rowley.

One word changed the Patriot Act: "Instead of intelligence having to be 'the' purpose of a Foreign Intelligence Surveillance Act order, Section 218 said it only need be a 'significant' purpose. This brought the wall down, allowing sharing of intelligence-derived information with criminal investigators and criminal prosecutors," said Rowley.

The Whistleblower Protection Act

Rowley sees revision of the Whistleblower Protection Act as a pivotal point in the process in intelligence. She said the current law contains "gaps and flaws" for disclosure of "mistakes and problems that preceded the 9-11 terrorist attacks that kept us from investigating in a more effective manner and, ironically, paved the way to some extent for the 9-11 Commission's work."

"Sadly, none of the 9-11 Commission recommendations call for sorely needed reform of the Whistleblower Protection Act (WPA), the key to enabling our American intelligence and law enforcement agencies to be as nimble as the terrorist adversary."

"Many people are afraid to ask questions," said Rowley.

Conversely, many are afraid to speak up.

"In government, there really is no incentive to open your mouth," she said.

Along that same vein, secrecy factors into the claim of oversight in the 9-11 Commission.

"Think about it. If it's all secret, can you have oversight?" asked Rowley.

To Rowley, more terrorism means, "We are going to have even more incursion on our civil liberties." She further admits "There's no magic bullet. The problem is we're seeking a magic bullet. Nobody wants the hard solutions. We have to deal with real causes. Otherwise, we continue to do stupid things."

And for the F.B.I. to be able to continue to do its job, yet maintain the public trust, Rowley said it must "adhere to the highest standards of integrity."

Rowley emphatically stated she receives no honorarium for her speaking or writing. She said she sees it as a conflict of interest to profit from the information she believes all should benefit from. When others do it, she thinks, "The public isn't served well."