

Q: We'll cover a couple things, Greg, in the course of this; but one point that is especially pertinent here in Minnesota is that there was a Minnesota connection to this case. Can you talk about the Pan Am Flight School, Moussaoui's relation to that and how that was sort of the genesis of this investigation?

A: Moussaoui came to the United States, I believe on February 23rd, 2001, and he went to a flight school in Oklahoma for several months, basically taking beginner's flying lessons. And in the spring of that year, although he had not soloed in a Cessna, really was not a quality student, he started sending emails to the Pan Am International Flight Academy in Eagan. And he worked out an arrangement where he could come in to the Twin Cities and take several lessons in a 747-400 Flight Simulator, which is a jumbo jet, and the most advanced model of that jumbo jet - one that can be operated, in large part, in an automated way. So it wouldn't take a lot of flying lessons in a simulator to be able to operate one of those planes.

Moussaoui checked into town around, if my memory is correct, August 10th. And he showed up at the school on August 13th. By the time he'd arrived at the school, there were already red flags, and several of the program managers at the school were raising questions. One of them went in and took a peek at his folder and said, "What is going on here? There is just one person coming in to take flight lessons. This is not how we function usually. We usually get a group from an airline coming in together for a refresher course or for an upgrade on their flight certificate, so they can fly a more advanced airplane or a different kind of airplane." And Moussaoui showed up and he had paid about \$8,300 in cash for his flying lessons and he was alone. And then he started taking ground school lessons for a couple of days, and he wasn't really a student who had the background to be where he was.

And so Clancy Prevost, who was his instructor, testified later in court that he concluded he wasn't going to get very far in trying to teach Zacarias Moussaoui how to fly. And so he related the story that after about an hour of trying to work with him he said, "Well, why don't we go to lunch?" Then they went to lunch. They talked a little bit and came back and worked some more. The next day the same thing happened, he said, "Well why don't we go to lunch?" And at some point during their discussions Mr. Prevost described finding Moussaoui's background to be somewhat curious. He was describing an incident involving an airplane in the Middle East, and at some point he asked Moussaoui if he was Muslim. Moussaoui said, "No, I'm nothing. I'm nothing." And he got a scowl on his face, seemed very irritated and Prevost said he smoothed it over by saying, "Well, I'm nothing too."

Then he started to... some of the other program managers were very curious about Moussaoui. One of them, Hugh Sims, gave him a ride over to the other building on the first day or two of his presence at the school. And he looked at Moussaoui, who was representing himself as being an international business consultant who was here for a joy ride - basically, he was taking a few flight simulated lessons because he wanted to have

some fun. That he had considerable net worth, and this was just going to be amusing for him. And Sims lit up and said, "Well, this doesn't seem right. Here's this guy in a t-shirt and a ball cap." So these signs were surfacing and the more questions people asked... Tim Nelson, one of the program managers who was a flight engineer, called on Wednesday morning to the FBI, which was August 15th. And he said, "I think we may have a terrorist here. He's a hijacker or worse." According to Nelson's account, he talked about how much fuel a fully-loaded 747 would carry and the magnitude of the devastation that could occur if it crashed in an urban area. And Sims called sometime later that day.

The FBI, all evidence indicates, jumped on that thing. As soon as Tim Nelson made his call, the FBI was on it; was at the flight school doing basically a little background work on Moussaoui - checked his immigration status and so forth. And by the next evening there was a stakeout waiting for Moussaoui to emerge from his motel room at the Residence Inn in Eagan to go out to the school for his first simulator lesson.

Q: Tell me about the role of the FBI and of Immigration in the ongoing investigation that started from this point.

A: Of course they worked together as part of the Joint Terrorism Task Force here in the Twin Cities, which involves multiple law enforcement agencies. And the Immigration Service had the jurisdiction here, because the only thing they had Moussaoui on, besides the fact that he didn't fit the stereotype of a typical flight student, is that he had overstayed his visit here in the United States. He had come here under the Visa Waiver Program, which is a program that allows residents of Western European countries to come in very easily. They don't need a visa. They can just show their passport and come in for ninety days. But Moussaoui had been here since February. So they had him on that, and that really became the wedge to begin the inquiry. And when he emerged from his motel room they started asking him questions. It's worth noting that while they were staking him out, there was a phone call between Harry Sammit, the lead FBI agent at the stakeout; and an official in Washington for the FBI who was discussing whether it would be better not to arrest him and to keep him under surveillance, which is, in many cases, done now.

Q: I do want to jump into one of the main issues that I'm sure will be discussed on the panel tonight, and that is whether a criminal or a FISA warrant should have been sought to pursue Moussaoui and to secure his laptop and other effects. Can you talk about the decision-making process within the U.S. Attorney's Office, FBI, and even DOJ on a national level?

A: Well, the FBI had to weigh a difficult decision at the time, because pre-9/11, the way in which investigations of this nature were conducted was they had to make a choice: is this going to be a criminal investigation or is this going to be an intelligence investigation? And never the twain would meet. You were not allowed to share information from the intelligence investigation to be used for a criminal prosecution later on. And so you had to make a really tough call. And this could have gone either way. There were problems

A - Gordon Q - Interviewer U - Unidentified

on both ends. Coleen Rowley, the FBI Chief Division counsel, drew some criticism for not pushing harder for a criminal investigation from the Justice Department's Inspector General in a look back at what happened. And she's been very open about saying that she wished she did more. The intelligence investigation, with what is known as a FISA warrant, a warrant under the Foreign Intelligence Surveillance Act, would have required approval and a great deal of support from the FBI in Washington. But the climate was not good, because a supervisory agent who had a glowing career at the time had drawn a severe reprimand from the secret court that reviewed FISA warrants, and there was sort of a chill in the air. And so the agents were leery about putting anything in that didn't have full basis for obtaining a warrant.

And the law was tough, because the law said you have to prove that the suspect, more likely than not, is a member of a foreign terrorist organization or somehow tie him to a foreign terrorist group. First of all, for all that he knew he was acting alone, so they had a problem there. And second of all, they didn't know the law very well, because Moussaoui did have a history with the Chechen rebels who were fighting the Soviets, I guess - fighting the Russians at that point. He had a history of that. But they didn't consider the Chechen rebels to qualify as a terror group, even though the leader of the Chechen Rebels, a man named Ibn Khattab, had been a friend of a fellow by the name of Osama bin Laden. And the FBI concluded, and was criticized for it later by some venues, by the September 11th Commission I believe - did not believe that it was a terror group. That was really a stumbling answer to your question, sorry.

Q: What are our lessons learned from this whole experience, particularly in relation to the process of applying for a warrant under FISA? There's certainly been legislation that has remedied that.

A: Right.

Q: Can you talk about how this would be handled now, five years after the fact?

A: Today, this would be handled much differently. First of all, the FBI and the intelligence community have changed their entire approach to these sorts of counterterrorism investigations. The focus now is on prevention, not so worried about who you're going to criminally prosecute. You're going to gather as much intelligence as you can. The Justice Department has drawn some criticism for intervening at very early stages and bringing some fairly modest charges against folks that they think are kicking around the idea of doing a terrorist act or attack of some sort. But the goal is stop them - don't let them go very far along - as soon as we get wind of it. There aren't enough FBI agents to keep track of all the potential terrorists who might be roaming around the country. We don't know who they all are. There might be sleeper cells and so forth, so if you get wind of something you gather as much intelligence as you can, do the surveillance as long as you can; but at some point you intervene. This is generally what's happened and this is very controversial, because many of the recent cases have been based on charges that are very nominal. I saw at one place that the average sentence was about twenty-eight days. I think the group at Syracuse University just reported the average sentence

was about twenty-eight days and had dropped to twenty days for the charges that some of these mostly Islamic terror subjects are being charged with.

Q: Can you talk about any major reflections you have about the criminal trial and the subsequent death penalty phase of that trial. We could get into more detail, but is there anything that stands out in your mind? It was such an unusual court proceeding. Is there anything you would like to tell us about your thoughts?

A: Well, I covered the trial of John W. Hinckley twenty-five years ago. And I covered the trial of the FBI senior officials who approved the Weather Underground break-ins when Richard Nixon and John Mitchell testified. And those trials and drama and incredible revelations and developments and twists and turns are dwarfed by the Moussaoui trial. It was extraordinary. You would think that it was about to slow down and then a new theme would develop and it would be just as dramatic as the last thing. Like, I could think of four themes, at least, that came out during the trial. I mean, one, you had the revelations about the failures and maybe negligence - but bungles - by the government in the pre-September 11th period. You had Moussaoui's testimony, his revelations that suddenly he was admitting that he was part and parcel of September 11th, was going to fly a fifth plane into the White House - which he later denied after he was acquitted, or spared the death penalty. And then you had the victim's families' wrenching testimony and the nightmare-producing images that were shown on videos around the courtroom. And...what was the fourth one? I lost the fourth one. I always talk about these four, I don't know what's the matter with me. It must have been the plane, it's gone. So you'll have to edit out the four themes and just...

But it was an incredible trial. And then, of course, you had the whole question of his guilt or innocence, which I mean... He pleaded guilty, of course, but you had the question of his culpability and whether he really should pay the ultimate price with respect to September 11th. And did he really know what the plot was? Was he really part of it? Should he be executed for lying, which is something that generally doesn't happen in this country any more?