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Q: Talk briefly about Moussaoui himself and how he got on the radar screen of the FBI here locally.

A: Sure, as I think it was widely known in the press or from press reports, Moussaoui came to the attention of the Joint Terrorism Task Force here in Minneapolis as a result of suspicions of the flight instructor at the Pan Am Flight Center in Eaton. And a call was placed to the duty agent at the FBI, and again there are a lot of myths about this case but the local FBI Joint Terrorism Task Force actually recognized the significance of this call immediately and two outstanding case agents from the Joint Terrorism Task Force followed up on immediately. And they were John Weiss from the Immigration and Naturalization Service, and Special Agent Harry Sammit from the FBI. Now the assignment of Harry Sammit to the investigation was actually very fortuitous, almost perhaps a fortuitous break for the government because it ultimately was, we weren't able to stop the plot but Agent Sammit was a trained pilot and experienced intelligence agent, or officer I should say from the United States Navy. And I think his prior experiences informed a lot of his very astute suspicions about what Zacharias Moussaoui was up to.

Q: At what point did the agents become convinced that Moussaoui was linked to a foreign terrorist group?

A: The interaction between the investigating agents and Zacharias Moussaoui were the prime drivers of their suspicions. He acted in a way that betrayed his suspicions. As John Weiss will say during the course of the program viewers are about to see, he acted with hostility toward the agents and he disclosed an anti-American bent in his answers. He concealed information from them that someone with a less suspicious intentions might be willing to disclose. It was really that interaction that I think heightened their suspicions about him. That's just the subjective.

Objectively, Zacharias Moussaoui was a person trying to take flight lessons and the suspicions that the agents had about him immediately led to suspicions about what, if this person was up to no good, why would they want flight lessons.

Q: Tell me about the interaction between FBI and Immigration at this early stage, how you brought him into custody and what happened subsequently, in terms of the investigation moving forward.

A: The investigation worked very smoothly between the FBI Agents and the INS Agents who were on the Joint Terrorism Taskforce, and that's a great victory and an example of the success of the Joint Terrorism Taskforce. The agents on the taskforce routinely, day in and day out, worked together, shared information, and that was a great success. The dispute that has been brought out during the course of the trial and various investigations such as the 9-11 Commission Report and the Office of Inspector General Report was the relationship between the Minneapolis Field Division of the FBI and FBI Headquarters, which was responsible for granting permission to use certain sensitive techniques in the case.

Q: There was a triangulation of effort by the U.S. Attorneys Office, the local FBI Office, and the Department of Justice to resolve the search warrant issue, criminal or FISA. Can you tell us about the discussion process that went on?

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A: Sure, in fact let me give you a little bit of context at the time, back in August of 2001, the government was operating under a number of rules which separated intelligence investigations and intelligence gathering tools from criminal investigation gathering tools. And so as a consequence there was a division, a wall it's been come to known, in which the agents investigating what is characterized from the outset as an intelligence investigation can't share information with criminal investigators - and that includes the U.S. Attorney's Office. So as a consequence of a decision made by the FBI Headquarters, this was characterized as an intelligence matter from the outset, and they were directed not to share information with the U.S. Attorney's Office. So the U.S. Attorney's Office was cut out of this discussion from the outset, and thereafter there were a number of debates between the FBI Field Office here in Minneapolis and FBI Headquarters as to what intelligence gathering techniques could be used. And that's the debate that a lot of people have heard about ... about whether or not the Agents in Minneapolis would be granted authority to search the possessions of Zacharias Mosawi.

Q: What were the ramifications of that decision?

A: The FBI Headquarters Supervisors decided that there was not probable cause to search the contents of Zacharias Moussaoui's possessions, including personal belongings and a laptop computer. That is an important question because depending on your point of view, being allowed to search those possessions might have lead to some clues that could have unraveled the plot before it was able to take flight. Now that's an interesting question too because as people will hear, folks have different takes on whether or not a search of Zacharias Moussaoui's possessions would have made any difference. For example, you hear people who are defenders of FBI Headquarters of course say that it wouldn't make any difference if the search would have been granted because it wouldn't have lead to any leads, any information that would have disclosed the plot. Ironically even the prosecution theme you'll hear in this case was that....

Let me back that up. Let me give that whole answer completely different, it will be a little more compressed.

Q: Sure.

A: At the time there was a vigorous debate between FBI Minneapolis Division and FBI Headquarters as to whether or not there was legal basis to search Zacharias Mosawi's possessions. FBI Headquarters rejected the argument that the search could take place, and that of course is the question of the day is, whether or not if the search went forward, the plot could have been stopped. And the answer to that question I think depends on, for a lot of people, on what perspective you have. You'll hear from people who defend FBI Headquarters that the search wouldn't have been successful. You'll hear from even members of the prosecution team, for their own reasons because of the theory of their prosecution, that they needed additional information. I'll tell you that the Minneapolis Field Agents who investigated the case believed that information in his possession could have lead ultimately to Ramzi bin al'sheeb and other members of the plot. So that debate is one that is out there.

A different debate, one that was answered in part by the Office Of Inspector General investigation, is whether or not FBI Headquarters did enough to follow up on these serious

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concerns raised by Minneapolis Field Office. And they of course found that the FBI Headquarters did not do enough and dropped the ball.

Q: What the information was that led the local FBI Office to believe that Moussaoui was linked to a foreign terrorist organization, so as to go ahead and get a FISA warrant?

A: I'm going to be careful on this because some of this is still classified, some of it isn't - I'm not sure how far ... So I'm going to err on the side of probably not giving you some classified stuff. The reason the Minneapolis Field agents felt that they had probable cause for a FISA search warrant is because they felt that they had sufficient information through other investigative agencies, that Zacharias Moussaoui had been engaged in the Jihad ongoing in Chechnya in Southern Russia, and that that connection provided the necessary foreign nexus.

Q: Summarize the findings of the IG's report, and where they pinpoint the problems in the procurement of the warrant process.

A: In the IG's report they singled out some missteps during the course of the handling of the investigation. One that received a lot of attention during the course of the trial, of course, is the relationship between the Minneapolis investigative agents and FBI Headquarters as to whether or not a FISA search should be authorized. But another less publicized part of the Inspector General's report is their criticism of the FBI lawyer in Minneapolis, Colleen Rowley. In the popular press Ms. Rowley has received a lot of accolades and has been given many honors, but in the IG's report, during the period of time when the investigation was underway, they significantly criticize her performance as the lawyer in Minneapolis and whether or not she provided adequate legal representation to the Minneapolis Field Office.

Q: Let's say FBI Agents have somebody in their sights that they think is a terror suspect, they want to get a FISA search warrant. Before 9/11, would the SAC have to make a request of DOJ?

A: The procedure for pursuing any of these investigative remedies has changed dramatically from pre-9-11 to post-9-11, and that's as a consequence of the PATRIOT Act. Before 9-11, all of these decisions were made within the FBI, without any consultation from the local U.S. Attorneys Office. The FBI agents, in consultation with their local management and FBI Headquarters, would make all these decisions. That's a completely different picture. During my time as a (inaudible) coordinator after the PATRIOT Act was passed, I was present in the FBI Terrorism Taskforce Room and all of these decisions were taken jointly by the agents, the US Attorneys Office. and we would consult together with Washington to decide which techniques we'd use, whether it would be an intelligence method, a criminal investigative method, or we might even use both in the course of the same investigation.

Q: Post-9-11, do you think the biggest change to this whole process has been through legislative changes such as the PATRIOT Act, or has it been internal management changes within the FBI and the different institutional footing?

A: Hopefully there has been a combination of changes since 9-11. Certainly the one that's gotten the most attention out of these legal changes in the PATRIOT Act ... it was so widely debated in elections, and I think everyone knows about the changes in the law and the procedures that

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allow more flexible techniques. The tougher nut to crack are the institutional frictions that may develop during the course of the case and that are probably inherent in a lot of bureaucracies, whether it be the government or elsewhere. And that's a tougher question. I think some improvements have been made in the structure and the culture of investigative agencies and in the Department of Justice, but I wouldn't say that that transformation is complete yet - or it might be an open question as to whether or not those obstacles will ever fully be overcome. There is always going to be a need to fight against those types of frictions that keep people from taking risks, from challenging decisions that are made above them, and insuring that a threat situation - such as occurred in August of 2001 - gets the proper attention.

Q: Is there anything else that you want to add to this discussion that will help frame the taped discussion from last night?

A: The forum that the viewers are about to see is the first ever opportunity to hear publicly from the participants in the Mosawi trial and investigation. And in the discussion of the different issues of the case, I think it will be interesting for the viewers to see the different perspectives that these participants have. You'll hear FBI officials defending the decision not to conduct a search, that we couldn't have stopped this plot. You'll hear prosecutors say this information wouldn't have been able to unearth the plot. You might hear defense attorneys saying yes, the government could have unearthed the plot. And their answers to all these questions I think are driven by the perspective they had on the case, where they were at the...

A: In the time since 9-11 there have been a number of changes to how the government does things and one of the more public is the adoption of the Patriot Act in breaking down the walls that prevent people from connecting the dots. The other challenge that was identified in the 9-11 Commission Report and others is that the cultural resistance or frictions to getting investigations done, and that's a harder nut to crack. I think some improvements have been made. I think there's a great room for more improvement. As an example, just this past week members of the Mosawi trial team, very deservedly received the highest honor in the Department of Justice, the Attorney General's Award - the prosecutors, the case agents who worked on the trial, victim witness coordinators, and everyone on the investigation with two notable exceptions the case agents who actually identified Zacharias Mosawi as a threat and placed him under arrest, Harry Samit from the FBI, and John Weiss from the Immigration and Naturalization Service. And it's surprising in light of the obvious great work done by the investigators and yet one wonders why the public criticisms made by Harry Samit during the course of his testimony under oath, which he obviously he's a great, loyal FBI Agent and he's loyal to the bureau but he described the shortcomings of the investigation. And one wonders whether or not his failure to receive the Attorney General's Award or be recognized at all for his fine work in this investigation is somehow a consequence of his public disclosures of the shortcomings of the investigation. Until the government is able to recognize it's shortcomings and not hide from them but use them to establish better procedures and more openness in how they consider these questions that will be a continuing challenge.