

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

4	UNITED STATES OF AMERICA,)	
5	Plaintiff,)	Docket No. 04 CR 661
6	vs.)	
7	SAMI KHOSHABA LATCHIN,)	Chicago, Illinois
8	Defendant.)	September 15, 2006 1:25 p.m.

TRANSCRIPT OF PROCEEDINGS - Evidentiary Hearing
BEFORE THE HONORABLE REBECCA R. PALLMEYER

APPEARANCES:

12	For the Plaintiff:	HON. PATRICK J. FITZGERALD UNITED STATES ATTORNEY BY: MR. JAMES M. CONWAY MS. VICTORIA J. PETERS 219 South Dearborn, 5th Floor Chicago, Illinois 60604
----	--------------------	---

16	UNITED STATES DEPARTMENT OF JUSTICE BY: MR. CLIFFORD RONES 1400 New York Avenue Washington, D.C. 20005
----	---

18	For the Defendant:	FEDERAL DEFENDER PROGRAM BY: MS. MARY HIGGINS JUDGE MR. WILLIAM H. THEIS 55 East Monroe Street, Suite 2800 Chicago, Illinois 60603
----	--------------------	--

21	Also Present:	Ms. Irene Ishoo, Interpreter
----	---------------	------------------------------

23	Court Reporter:	FRANCES WARD, CSR, RPR, FCRR Official Court Reporter 219 S. Dearborn Street, Suite 2118 Chicago, Illinois 60604 (312) 427-7702 frances_ward@ilnd.uscourts.gov
----	-----------------	--

1 MR. THEIS: Are you ready, your Honor?

2 THE COURT: I am.

3 MUHAMMAD AL-DANI, GOVERNMENT'S WITNESS, PREVIOUSLY SWORN

4 CROSS-EXAMINATION - Resumed

5 BY MR. THEIS:

6 Q. Mr. Al-Dani, I am going to hand you the Dawood Group
7 Exhibit No. 1.

8 (Exhibit tendered.)

9 BY MR. THEIS:

10 Q. Take a look at the cover of that file, which has been
11 marked as PDF 1.

12 A. You mean the cover?

13 Q. Yes, sir.

14 Where there is that red stripe in the left-hand
15 corner, do you see that?

16 A. Uh-huh.

17 Q. Is that a "yes"?

18 A. Yeah. You know, the agent, Henry John Dawood, America.

19 Q. Now, printed in the upper --

20 MR. THEIS: We are waiting for the computer, your
21 Honor.

22 (Brief pause.)

23 BY MR. THEIS:

24 Q. In the upper left-hand corner of that file, there is
25 some printed material. Do you see that there?

1 A. Yes, sir.

2 Q. Our translator has translated that as "revolution
3 command council, intelligence services, hostile activities."

4 Is that different from the IIS?

5 A. No.

6 Q. So whatever that printing is and regardless of how it's
7 translated, that's the very same thing as the IIS?

8 A. Yes, sir.

9 Q. The cover also has the number "2512." What does that
10 refer to?

11 A. This is 152, I think.

12 Q. Well, there is actually three numbers I am going to ask
13 you about.

14 A. Yeah.

15 Q. In the center is 2512 underneath the word "secret"?

16 A. Yes, sir, 2512.

17 Q. What does that refer to?

18 A. I think -- you know, I am assuming -- I have to check --
19 maybe this is the, you know, the code or the number of the
20 source.

21 Q. Then, to the side, there is the number "152." What does
22 that refer to?

23 A. This is again the serial number, you know, in
24 headquarters, the number of the file.

25 Q. And then there is "H/4." What does that refer to?

1 A. Maybe this is for the number of the section which the
2 sources belong, but I am not sure, you know.

3 Q. Was there a section H/4 within the IIS?

4 A. There is, you know, maybe hundred of H/4, because, you
5 know, each desk there is -- you know, there is four or five,
6 you know, section in each desk. Each desk, there is a lot
7 of -- you know, just like American desk. You know, there is
8 three sections. Other, you know, desk, maybe there is five
9 sections.

10 This is for Henry John -- for hostile section,
11 maybe it is Section 4. And if we check here, we can know if
12 it is for Section 4 or not.

13 Q. Are you saying that the "H" refers to hostile?

14 A. No, no, because hostile in Arabic something different,
15 not H.

16 Q. Okay.

17 So what does the "H" refer to, if you know?

18 A. I can just maybe look. Maybe it is --

19 Q. All right. Take a look.

20 (Brief pause.)

21 BY THE WITNESS:

22 A. Really, I can't tell what that "H" means. I don't know.

23 BY MR. THEIS:

24 Q. Take a look at Page 37 in the file.

25 A. Yes, sir.

1 Q. That has a serial number on it of 634. Do you see that?

2 A. 634, yeah.

3 Q. Now, does that mean that in that file there are 633
4 documents that came before that?

5 A. No.

6 Q. So what does the 634 represent?

7 A. Sir, I can just explain you something.

8 This number --

9 Q. "This number," being 634?

10 A. Yeah.

11 This number, on all files you see it. This is --
12 belong to the headquarters. There is some serial number,
13 either the serial number for source, for the papers; or, you
14 know, they put this number, you know, when they like to
15 forward it to, you know, microfilm section.

16 Q. When they forward it where?

17 A. Microfilm or computer. You know, they create a desk in
18 IIS in 1980; and in this desk we call microfilm, they put all
19 the paper.

20 And this is the reason why you see sometimes the
21 serial number on the same ink and the same handwriting. That
22 means, the case officer is not make the serial number until
23 they told him, we like to put the paper in microfilm section.
24 And then he give, you know, page number. Maybe he forwarded,
25 you know, six files and put, you know, number for all these

1 papers in order to put it in microfilm.

2 These numbers for me, as IIS officer, doesn't mean
3 anything for M4. All administration numbers. It is not
4 intelligence. Either, you know, the number for computer, and
5 I think mostly it is for microfilm, you know, numbers. For
6 intelligence, doesn't mean anything.

7 Q. Does this document have a serial number that's related
8 to the particular file?

9 A. No.

10 Q. Is that unusual?

11 A. No. It's usual.

12 Q. So it's usual for these documents not to have serial
13 numbers that are related to the particular file?

14 A. I am M4. I don't care where it puts 100 number. This
15 is not important for me. Something -- administration or
16 microfilm or belong to computer.

17 But the number which I think here, which number of
18 the letter and which date and who signed it. This is -- that
19 means original. Otherwise, any number outside of this
20 number -- and this 3165, you know, December 10th, 1983, this
21 is intelligence. This is -- that means number of station.

22 Whatever outside, all it is administration, either
23 for serial number in headquarters or in microfilm or computer
24 section. For M4 it doesn't mean anything for me. This is
25 administration number.

1 Q. We have seen indexes for some of these files previously,
2 correct?

3 A. Yes.

4 Q. We can agree that when the index is prepared, each page
5 receives a serial number which is then written down in the --

6 A. Yes.

7 Q. -- index?

8 A. Yes.

9 Q. Is that something done by a clerical employee?

10 A. Yeah. This is all administration. They did this.

11 Q. So sometimes we see the single- or double-digit numbers
12 that are keyed to the index for the file?

13 A. Yes.

14 Q. And typically they should be there, correct?

15 A. Yes.

16 Q. ~~And now we are seeing numbers that you say relate to~~
17 ~~microfilming, correct?~~

18 A. You see, microfilm -- and I like to explain to you.

19 Sometime -- last time you ask me, this is -- you
20 know, serial number written on the same pen, the same ink,
21 and the same handwriting. And maybe this is -- the file, it
22 is ten years old. How it come with the same pen? That means
23 they don't make the serial number until the microfilm ask
24 them, because they like to put in on the computer or
25 microfilm these papers and when he forwarded the file to them

1 in order to be sure the file will retain complete. The case
2 officer or the clerk, you know, has the serial number.

3 Sometimes, you know, American -- I am in American
4 desk and, you know, the hostile section ask me for the file
5 for Dawood.

6 The case officer -- you know, if I forward it in
7 order to be sure they are not going to take some paper
8 without telling me, I count the pages and put serial number,
9 because serial number would mean, if the file is not
10 complete, I am going to figure out which paper is missing.

11 These, I am telling, for me -- I am, you know,
12 senior officer in M4 -- doesn't mean anything. I'm not
13 (inaudible). And even any intelligence, you know, officer,
14 he looks. This letter from station, it is signed by the
15 chief of station? Yes. There is a number for letter? Yes.
16 There is a date? Yes. That is important.

17 But for others, it is just administration. They
18 put it for serial, for computer. That's it.

19 Q. So there are some files within the IIS that would have
20 no serial numbers on them. Is that what you are saying?

21 A. No, no. There is serial number for -- there is serial
22 number, you know, for each desk. You know, when they
23 received, you know, couple of letter from each station, they
24 put serial number. When they received it from other offices
25 to IIS, there is serial number. When they forward it, you

1 know, there is income and outcome. When they send any letter
2 there is serial number. It should be serial number.

3 Q. For any given letter, there could be two or three
4 different serial numbers, correct?

5 A. Each letter?

6 Q. Yes.

7 A. The serial number for -- not the number of letter. The
8 serial number for register the letter in headquarters or on
9 the desk may be different from time to time. Usually it is
10 one, you know. But sometimes maybe the serial number, they
11 missing, and they count the paper again. Especially after
12 the Gulf War, 1991, there is a lot of paper missing, and they
13 should register again and arrange -- organize the files
14 again, you know.

15 But mostly you see, you know, only one number or
16 two numbers in serial.

17 Q. Why was there a lot of paperwork missing after the Gulf
18 War?

19 A. Because, you know, there is -- they don't remove all
20 files from headquarters. And, you know, after the bomb and
21 other things, there is some, you know, rooms damaged and the
22 files inside. Yeah. A lot of paper is burned, you know.

23 Q. Just to be clear, when you say "the Gulf War," you mean
24 the war in 1990, '91?

25 A. Yeah. The Gulf War, yeah. I was there, you know.

1 Q. Take a look, if you would, please, at Pages 32 and 33.

2 A. Yes, sir.

3 Q. This is a letter dated June 2nd, 1984?

4 A. Yeah, exactly.

5 Q. And, actually, this is a copy of the letter that we saw
6 in Mr. Zakerya's file, correct?

7 A. Yes.

8 Q. Once again, are there any pictures in this file, the one
9 that we are looking at right now, Mr. Dawood's file? Any
10 photographs?

11 A. Sir, I just confirm it. The note for pictures is not
12 forwarded to the station. Only -- he said the desk of --
13 the American desk told the case officer that it is more
14 preferable to ask the station to get a picture and complete
15 application. But this is -- you know, they don't forward it
16 to -- they don't send it to the station. Yeah.

17 Q. So headquarters is telling Washington, get these forms
18 and photographs, but --

19 A. No, no, not telling. This letter, it is from
20 headquarters. This letter from headquarters to the
21 Washington station. It is prepared by case officer Ali,
22 A-l-i. He was the head of the section, American desk
23 section, in 1984.

24 And, you know, the American desk director signed
25 the letter, but he put note. He said it was better if you

1 ask the station to get the picture and complete the
2 information. But the letter forwarded without adding this
3 note.

4 Q. Let me ask you to look at Page 14, please.

5 A. 14, yes, sir.

6 Q. In the very first numbered paragraph, the person who
7 wrote this says that Mr. Dawood was in contact with
8 Mr. Khoshaba. Do you see that?

9 A. Yes. First paragraph and last paragraph also, for
10 suggestion.

11 Q. And it refers to a letter from the Athens station of
12 December 10th, 1983, as the basis for making that statement.

13 Do you see that?

14 A. Yes, sir.

15 Q. Then take a look, if you would, at Page 37 and 38.

16 A. Yes, sir.

17 Q. That's the letter from the Athens station of
18 December 1983, correct?

19 A. Yes, sir.

20 Q. And it's got a number of 3165, correct?

21 A. Yes, sir.

22 Q. Actually, the date of the actual 3165 is different from
23 the memo that we have been looking at on Page 14, right?

24 A. No. He said, you know, the letter 3165 on 10th December
25 1983, exactly the same.

1 Q. Okay.

2 A. Paragraph 1.

3 Q. Beg your pardon?

4 A. Paragraph 1.

5 Q. Paragraph 1 of Page 14 says December 10th, 1983, right?

6 A. Yeah.

7 Q. And if we look at Page 37, it's dated December 1st,
8 right?

9 A. No. It is 10th. I think because it is copy, the zero
10 is not clear. Maybe the translator is miss, you know, the
11 zero because here is very small. It is 10th, not December
12 1st. Yeah.

13 Q. Now, in Page 14 is there any reference to an Abu Sarmad?
14 Does anybody speak of an Abu Sarmad?

15 A. Just a second.

16 (Brief pause.)

17 MR. THEIS: We need to take a short pause for the
18 computer to reboot. I guess that will give our witness a
19 chance to review the document.

20 (Brief pause.)

21 BY THE WITNESS:

22 A. I don't see anything to say "Sarmad." I think only
23 mention Comrade Sami Khoshaba.

24 BY MR. THEIS:

25 Q. So the words "Abu Sarmad," they just aren't in that

1 document at all, correct?

2 A. Let me double-check it, if it is.

3 (Brief pause.)

4 BY THE WITNESS:

5 A. Yeah, only mention Sami Khoshaba.

6 BY MR. THEIS:

7 Q. As a matter of fact, can you remember, in looking at any
8 of these files that we have been discussing, any mention of
9 the name Abu Sarmad?

10 A. I don't remember anything mentioned here. Only I think
11 on the receipt, you know, for receiving money.

12 Q. So there is that one piece of paper that has the words
13 "Abu Sarmad"?

14 A. It is, sir, and other things --

15 Q. Let me finish the question.

16 ~~In all the other hundreds of pieces of paper --~~

17 A. Sorry, sir.

18 Q. -- have you ever seen the words "Abu Sarmad"?

19 A. No. The reason why, I can tell you. It is not formal
20 to contact headquarters. It will be just like, you know,
21 when you say Abu, Abu so and Abu so. This is just like
22 friendly expression use. And they mention, you know, his
23 name clear, why they mention Abu Sarmad.

24 Q. I am going to show you Dinkha Group Exhibit 1.

25 A. Yes, sir.

1 (Exhibit tendered.)

2 BY MR. THEIS:

3 Q. Take a look at the outside cover, which is PDF 1/1.

4 A. On the cover?

5 Q. The cover.

6 A. Yes. Okay, sir.

7 Q. It once again has that red stripe across the corner.

8 You see the number "35" on there?

9 A. Yes, sir.

10 Q. Do you know what that means?

11 A. I can't, you know, confirm what it means, you know.

12 Maybe number of file, you know. But I'm not sure, you know.

13 This is also for administration purposes.

14 Q. So the number 35 you think might be some kind of
15 administrative number?

16 A. Yes. Maybe the number of the file.

17 (Brief pause.)

18 MR. THEIS: Sorry for the delay, your Honor, but I
19 am trying to find something here.

20 THE COURT: No problem.

21 (Brief pause.)

22 MR. THEIS: I am having some problems with my
23 notes, which I am going to resolve at the next break.

24 So let's take a look at the Shaony file, please.

25 BY MR. THEIS:

1 Q. Here is Shaony.

2 (Documents tendered.)

3 BY THE WITNESS:

4 A. Okay, sir.

5 BY MR. THEIS:

6 Q. Once again, if you would, look at the front cover.

7 A. Yes, sir.

8 Q. There is the number "11" on there. Do you see that?

9 A. Yeah, "America 11."

10 Q. What does that reference mean?

11 A. Again, I think, administration. There is nothing
12 related to intelligence. I mean, to -- you know, for M4.
13 You know, just for administration number.

14 Q. And do you know what function that administrative number
15 would have served?

16 A. You know, in each desk, you know, there is
17 administration section responsible for the letter coming from
18 station, letter coming from other desk, letter coming from
19 outside intelligence. They should register all number,
20 because when there is any follow-up, they know to which
21 section this letter belong. Without serial number, no one
22 can get the reference.

23 Q. In that file, would you look at 4-16, please.

24 A. 4-16. Yes, sir.

25 Q. In there, there is a statement about how the director

1 general gave permission to publish a paper in the United
2 States. Do you see that?

3 A. It is 416?

4 Q. Yes.

5 A. 4-16, right?

6 Q. 4-16, yes.

7 A. This is a letter from Athens station. Yeah, this is, as
8 you say, the approval from general director. That means
9 general director of M4.

10 Q. So the Athens station is writing a letter to Baghdad,
11 correct?

12 A. Yes, sir.

13 Q. And in there, Athens refers to a permission that was
14 given by the general director to publish this newspaper,
15 right?

16 A. Yes, sir.

17 Q. When the letter refers to the general director, who's
18 that referring to? Is that M1 or M4?

19 A. This is M4. M4 general director, as mentioned in the
20 letter, visited Athens. No, no. I mean, you know, that
21 means Sami, you know, visited United States and, you know,
22 met with Shaony, and that means the general director of M4 --

23 Q. Of M what?

24 A. M4.

25 -- gave approval to the Athens station. And that's

1 just like to mention here, in order to remind the -- you
2 know, the desk or case officer that the station already had
3 the approval to do this.

4 Q. A decision like that, to give approval to publish a
5 magazine, that's something that would be put in writing; is
6 that correct?

7 A. Not necessarily in intelligence. Nothing should be in
8 writing in intelligence. The general director can say, okay,
9 go ahead. Do it.

10 Number one, they say, okay, give Mr. Al-Dani
11 10,000. This is the award. You know, they take it. It is
12 order.

13 Intelligence -- IIS, just like any military, when
14 they hear, then think -- you see, sometimes we had
15 conference. Nothing written. And the number one, or general
16 director, they say, okay, you know, give a promotion to
17 Mr. Al-Dani. No one come tell him general director wrote
18 this to me. No one dares to talk. They just talk.

19 Or they just like Saddam. When Saddam, they say,
20 kill one, no one tell me, "Write me a letter."

21 And intelligence also very strict. When they
22 say -- I am American, you know, desk director. I just pick
23 the telephone and call anyone and order him to do this and
24 this and this, without writing.

25 Q. This letter M4-16 states in writing that the permission

1 was given, correct?

2 A. Permission either giving, you know -- maybe there is,
3 you know, just like an oral permission. Either chief of --
4 because chief of station in Athens is close friend to general
5 director. And always every day he called him, and maybe in
6 telephone told him, we like to do this and this.

7 Q. Are you telling us that there would be no requirement
8 for the general director to put in writing and sign --

9 A. No.

10 Q. -- his permission?

11 A. It's not necessary. Sometimes they say -- sometimes
12 held a meeting with the station or with any Athens desk and
13 told them, do this, this, this. Who can dare tell general
14 director, please, wrote me this order, one, two, three. He
15 said, "I tell it to you. Do it."

16 Q. In fact, you really don't know one way or another
17 whether this permission was put in writing, do you?

18 A. Here, 100 percent there is permission, either oral or
19 written.

20 Q. No. My question is, do you know for a fact, one way or
21 the other, whether the general director signed off on
22 allowing this paper to be published in America?

23 A. For this? I think there is permission, you know, when
24 they transfer the relation for Shaony to Washington, and I
25 think there is a communication between ministry of

1 information to help him, give him some money. But I am
2 not -- I have to check all the files or other things.

3 Q. My question is, do you have any knowledge, one way or
4 another, whether at the very beginning any piece of paper was
5 signed by the general director giving his permission to
6 publish this paper?

7 A. I don't know. And I'm telling you, he will not do it,
8 because he give the order. No one tell him, you know, do
9 this. If he give the order, oral or written, it is order.
10 IIS is military office and more than military. They should
11 take -- and general director is number two in the IIS.

12 Q. Let me for a second take a look at your paper file here.

13 (Brief pause.)

14 MR. THEIS: Okay. I am ready to move on to the
15 Potros file.

16 BY MR. THEIS:

17 Q. I am handing you Potros Exhibit 1.

18 A. Okay, sir.

19 (Documents tendered.)

20 MR. THEIS: Your Honor, we are getting a sign from
21 Ms. Ishoo that she needs a break.

22 THE COURT: Let's take a break. We have been going
23 on for almost 45 minutes anyway, so we will take about a
24 15-minute break. Thanks.

25 (A brief recess was taken at 2:03 p.m. to 2:29

1 p.m.)

2 BY MR. THEIS:

3 Q. Mr. Al-Dani, I have put the Dinkha Group Exhibit in
4 front of you. We had looked at that before. I wanted to
5 return to that briefly.

6 Would you take a look, please, at Page 3-17.

7 A. Yes, sir.

8 Q. You see in there, it's a letter addressed to
9 Mr. Director of Department 9th?

10 A. Yes, sir.

11 Q. Where is Department 9th? Is that M4 or some other
12 place?

13 A. Yeah. This is American desk. At that time, '84, you
14 know, it is section desk No. 9, American desk in M4. They
15 call it S, sheen (inaudible).

16 THE COURT REPORTER: S, sheen?

17 THE WITNESS: That means SH/9.

18 BY THE WITNESS:

19 A. It is head to the American and director of, you know,
20 Section 9.

21 THE COURT: Did you say SH/N?

22 THE WITNESS: No. S-H, you know, slash No. 9.

23 THE COURT: SH/9.

24 THE WITNESS: Yeah.

25 THE COURT: Thank you.

1 BY MR. THEIS:

2 Q. So the person to whom it's addressed is the director of
3 the Americas desk?

4 A. Yes.

5 Q. Now, it's signed by someone who claims the title of
6 Director of American Section?

7 A. Yes.

8 Q. What's the difference?

9 A. The desk -- American desk is, you know, include -- you
10 know, contain three desks.

11 Q. Includes what?

12 A. Three desk; one for economy, one for intelligence, and
13 one for political, politics. You know, here, Ali Nehi, his
14 name, American desk director in M4 -- I mean section. Below
15 the director, number one in the American desk. I mean number
16 two.

17 Q. So the person who signs this letter is writing to his
18 boss; is that correct?

19 A. Yes.

20 Q. In the letter he tells his boss that he coordinated with
21 the Athens section; is that right?

22 A. Yes, sir.

23 Q. And it was with regard to Mr. Dinkha and Mr. Dawood that
24 he was coordinating with the Athens section, right?

25 A. Yes, sir.

1 Q. The Athens section told him that they don't have any
2 information about these people; is that right?

3 A. Yes, sir.

4 Q. However, the Athens section also told him that Dinkha
5 and Dawood are observed by a trusted individual who was
6 settled in Athens; is that right?

7 A. Yes.

8 Q. Does the letter give a name for this trusted individual?

9 A. No.

10 Q. Does the letter say that this trusted individual is an
11 IIS officer?

12 A. They don't say that.

13 Q. If this person who was observing Dinkha and Dawood were
14 an IIS officer, is that something that would have been put in
15 this letter?

16 A. Here, you know, it looks to me that means -- because
17 these files not with Athens section. This is for hostile
18 section. And Athens section, they don't know anything about
19 these files. Athens section responsible for what happened
20 inside, you know, Athens only, Greece. But this, you know,
21 belong to the hostile section.

22 Q. Now, which belongs to the hostile section?

23 A. These files, Dinkha and, you know, John Dawood.

24 Q. Okay.

25 A. And, you know, just like if they came to me as American

1 desk director and ask about, I told them, I don't know. It
2 is -- I think, I hear about them, but it is -- already there
3 is a detail in hostile section about them. And there is
4 file.

5 Q. When the hostile section puts out an inquiry to the
6 Athens section, would the Athens section tell the hostile
7 section that this trusted individual is an IIS officer, if,
8 indeed, that were the case?

9 A. Yeah. There is in many paper on the file, they mention
10 a member of the station, you know, Sami Khoshaba is
11 responsible for this. There is a lot of mention in the
12 files.

13 Q. You would agree with me, though, that in this particular
14 document, there is absolutely no mention of Mr. Latchin,
15 correct?

16 A. Yes, they don't mention.

17 Q. All right. Let's take a look at the Potros file, then,
18 please.

19 (Documents tendered.)

20 BY MR. THEIS:

21 Q. Take a look, please, at Page 2-24.

22 A. Yes, sir.

23 Q. There are two different people who sign off on this
24 document; is that correct?

25 A. Yes.

1 Q. One of them is the chief of the Greece and Cyprus
2 section, correct?

3 A. Yes.

4 Q. And the other one is someone referred to as the branch
5 director, correct?

6 A. Yeah. It is, I think, director of maybe Europe, you
7 know. The desk director.

8 Q. So is the branch director superior to the chief of the
9 Greece and Cyprus section?

10 A. Yes.

11 Q. The chief of the Greece and Cyprus section says, "We
12 can't deal with Potros because he is a fugitive."

13 Is that what is in there?

14 A. Yeah.

15 Q. What is he a fugitive from?

16 A. Because they consider him defected from the country.
17 And they don't like to deal with the people who defect from
18 the country. And he also -- he was not finished, you know,
19 his -- finish his military service.

20 Q. Go ahead.

21 A. And then he said, we don't -- you know, he doesn't
22 recommend to deal with him for this reason, because he left
23 the country without approval, unofficially. He should have
24 completed his service in military. There is compulsory
25 service, you know, at that time. And for this reason, you

1 know, he is not normal emigrant.

2 Q. Back in early 1983, Iraq was at war with Iran; is that
3 correct?

4 A. Yes, sir.

5 Q. Men of a certain age had an obligation to serve in the
6 Iraqi army; is that correct?

7 A. Yes, sir.

8 Q. Mr. Potros had fled the country and avoided his military
9 service. Is that what this is saying?

10 A. Yes, sir.

11 Q. According to the file, however, the IIS had quite a bit
12 of dealing with him; is that right?

13 A. Yes, sir.

14 Q. Why would IIS deal with him even though he was a
15 military deserter?

16 A. You know, this is -- for me, as an intelligence officer,
17 it doesn't matter if he defect, if he left country, you know.
18 At that time some officer, you know, they don't know, you
19 know. A lot of people left Iraq at that time. And it's
20 better to use them for the benefit of Iraq.

21 But he is -- you know, I think his mind is very
22 limited. He is very narrow mind to think, you know, don't
23 deal with him. And this is -- I think there is no serious
24 reason.

25 Q. The chief of the Greece and Cyprus section is

1 narrow-minded. Is that who you are saying is narrow-minded?

2 A. The chief of the desk, you know, asking to request, you
3 know, information about him from the internal security. And
4 if there is any obligation for him, you know, just any
5 conviction, you know, for him or any other things, he order,
6 you know, the head of the section to -- you know, just to ask
7 more information from internal security about him.

8 Q. Take a look at the cover of that file, the outside
9 cover.

10 That has the number "15" on it. Do you see that?

11 A. Yes, sir.

12 Q. What does that mean, if you know?

13 A. Again, it's administration number.

14 Q. Are you saying you know it's an administrative number
15 or --

16 A. Yeah, because this file -- I saw thousand of file just
17 like this; thousand, not only one. I can tell you all --
18 maybe 90 percent of M4 file, I saw it, because my job as an
19 advisor to general director. I am not looking for this
20 number. It doesn't --

21 Q. You what?

22 A. I am not looking for this number. It doesn't mean
23 anything, not me, not the general director, not case officer.
24 This is administration number for a serial number, either the
25 number of the file -- it is not the number of the source.

1 It's not the intelligence number. It is not code. It is
2 administration, either for computer or microfilm or
3 administration serial number.

4 Q. The number is put on there so that people can keep track
5 of the file, correct?

6 A. Yes.

7 Q. In M4 how many files like this were there?

8 A. Thousands. Thousands, you know. Maybe 10,000.

9 Q. And how is it that Mr. Potros would get No. 15?

10 A. This is the number belong to the hostile section.

11 Q. To the what section?

12 A. Hostile section. The section of hostile or opposition
13 group.

14 THE COURT: Hostile.

15 BY MR. THEIS:

16 Q. ~~So are you saying that anyone whose file was of interest~~
17 ~~to the hostile section would have a 15 put on the file?~~

18 A. Yes. This is -- you see, there is serial number for
19 general director and general. There is serial number for
20 each desk in M4. And then each desk give you a number of
21 files or serial number for computer. I don't -- there is a
22 lot of -- just for -- doesn't mean anything in intelligence.
23 Point of view as intelligence, we don't, you know, look for
24 these file numbers.

25 Q. The file of every person who was of interest to the

1 hostile section would get a 15 on it, correct?

2 A. No, no, no. Each file has different number.

3 Q. Mr. Potros' file has a 15 on it, correct?

4 A. Yeah. That means the serial number for the file maybe
5 in hostile section is 15.

6 Q. Are you saying all the files in the hostile section had
7 a 15 on them?

8 A. No, no, no. That means there is another number 1, 2, 3,
9 100, 200. And the serial number, which is, you know, just
10 for the section, is 15.

11 Q. So the 15 really doesn't tell you anything about which
12 section, does it?

13 A. As I am intelligence, sir, I don't -- I am not looking
14 what this number is. I don't care what this number. I
15 looking what the number of the source. What is the code for
16 the source?

17 Q. Can you tell from looking at this file whether it was
18 maintained by M4 or by the hostile section?

19 A. No. This is -- you can't tell anything about this
20 number.

21 Q. Because the hostile section was actually a different
22 M number, correct?

23 A. No. It is a section, and a -- I mean a desk in M4.

24 Q. At one point, though, hostile activities became M40; is
25 that correct?

1 A. M40?

2 Q. Yes.

3 A. No, no. This code, I think, change after
4 2000-something, because they make it D, as in directory.

5 In M4, you know, until, I think, 1983 hostile is a
6 desk in M4. I think at that time -- I don't know what's the
7 number. But after 1993, all opposition group, which was
8 including hostiles, you know, section, make D5 in M4. And
9 they went -- I think I saw some letter that means when they
10 like to write, they make it, you know, M14. They change it,
11 I think, after there is a lot of officers left, because maybe
12 they change the number.

13 THE COURT: Okay. I am really confused, because I
14 thought something changed in 1983, and then a couple of
15 seconds later I think you said it changed in '93.

16 THE WITNESS: Yeah, in '93. Yes.

17 THE COURT: '93.

18 THE WITNESS: After '93 they changed the hostile
19 and opposition group in M4. They just promotion this section
20 and make it D, as D4 and D5.

21 THE COURT: And that happened in 1993?

22 THE WITNESS: After 1993, I think.

23 BY MR. THEIS:

24 Q. When hostile --

25 MR. THEIS: Are you finished, your Honor?

1 THE COURT: Yes.

2 BY MR. THEIS:

3 Q. When hostile activities was still within M4, did they
4 have their own numbering system that they applied to the
5 outside of these files?

6 A. Yes. This is the same -- it stayed the same, just
7 change -- you know, the offices become bigger than this.

8 Q. But in hostile activities, would each file have 15 on
9 the cover?

10 A. No.

11 Q. So each individual who was of interest to hostile
12 activities would get a different number on the cover of his
13 file; is that right?

14 A. Yeah. There is -- you know, this -- again, this number,
15 it is administration number, nothing relate to intelligence.
16 ~~For case officer as intelligence, what is inside the number,~~
17 ~~what is code for the source.~~

18 Q. But when someone needs to find a file for the case
19 officer, it helps to know the number of the file, correct?

20 A. Yes.

21 Q. And that's why the numbers are put on there?

22 A. Yes, sir.

23 Q. Within hostile activities, how many such files would
24 there be like this one?

25 A. I can't tell. You know, thousands also.

1 Q. So do you know how Mr. Potros ended up with a number
2 like 15?

3 A. I don't. I don't. I saw a lot of file of hostile, but
4 I never remember numbers just like this, because this is not
5 my business. My business, what is inside.

6 Q. Do you know whether, as each file was opened, a higher
7 number was assigned and they were all in order?

8 A. I don't know.

9 Q. If you look at 4-1 in the file --

10 A. 4, dash?

11 Q. 4-1.

12 A. Yes, sir.

13 Q. Someone has written the English word -- well, let me
14 take a look at your paper copy for a second, if I may.

15 (Brief pause.)

16 ~~MR. THEIS: I am going to withdraw that question,~~
17 your Honor. In the paper copies we received, someone had
18 handwritten some English page numbers, but I am looking at
19 the original document, and those numbers are not there.

20 THE COURT: All right.

21 BY MR. THEIS:

22 Q. Let's take a look at the Nadji Lachin file. I am going
23 to hand you Nadji Group Exhibit 1.

24 A. Okay, sir.

25 (Exhibit tendered.)

1 BY MR. THEIS:

2 Q. Once again, if you would, look at the cover, please, on
3 that.

4 A. Yes, sir.

5 Q. We have got that red diagonal stripe on there.

6 And someone has written the number "23" on there.

7 Do you see that?

8 A. Yes, sir.

9 Q. The number 23, can you show us where on the document
10 that is. It appears that there's numbers in --

11 A. You know, they put it down and out.

12 Q. So this is a 23 here (indicating)?

13 A. And up, also 23.

14 Q. And up here (indicating)?

15 A. Yes.

16 THE COURT: In blue?

17 THE WITNESS: No. You know, other one.

18 BY MR. THEIS:

19 Q. Actually, the one on the top, someone has written "23"
20 in blue ink, correct?

21 A. Yes. You know, it is written on the, you know, just
22 regular pen, and I think put it in marker just to make it
23 more clear.

24 THE COURT: So what's written in pen and in the
25 blue marker.

1 THE WITNESS: There's still a 23. The old number
2 and bigger number is 23.

3 THE COURT: Okay.

4 BY MR. THEIS:

5 Q. Then at the bottom of the page there is a 23 also?

6 A. It is the same number, yes.

7 Q. This is another one of these serial numbers, you say?

8 A. Yes, sir.

9 Q. Is this a file from the hostile activities --

10 A. Yes, sir.

11 Q. -- section?

12 A. Yeah. And it's all written, you know, Section 5,

13 Assyrian.

14 Q. Well, is the Assyrian section the same as hostile
15 activities, or is that something else?

16 A. It is a part of hostile section.

17 Q. So hostile section has got subdivisions; is that
18 correct?

19 A. Hostile, it is a desk, contain Assyrian, Kurdish --
20 Kurdish, you know, parties, Assyrian, you know, Shi'ite, all
21 authentical groups, each one has a section in hostile desk.
22 And Assyrian is one section.

23 Q. Does hostile activities cover these groups of people
24 when they are inside the country of Iraq?

25 A. Mostly for IIS outside. Inside is for internal

1 security.

2 Q. Then, if you look at Page 2, there is an index to this
3 file, correct?

4 A. Number 2?

5 Q. Yes.

6 A. Yes, sir.

7 Q. It has entries from 1 to 5, correct?

8 A. Yes, sir.

9 Q. In fact, though, the file has got a total of
10 21 different sheets of paper in it, right?

11 A. Yes, sir.

12 Q. Take a look at PDF 19, please.

13 A. Yes, sir.

14 Q. Is this a letter that was signed by you?

15 A. No. It is signed by, you know, the chief of station
16 before me, Mowafiq Al-Ani.

17 Q. It's dated the 3rd of January 1985, right?

18 A. Yes, sir.

19 Q. Weren't you already the chief of the station by then?

20 A. Yeah. This is because, when I came, you know, this guy,
21 Mowafiq Al-Ani, he already assigned as chief of station.

22 Q. Somewhere besides Washington?

23 A. No, no. Chief of station before I came. I came on
24 mid -- I came on, I think, May '84. And in headquarters,
25 they told me, it is not nice to tell him, no, no, you are not

1 anymore. He is only going to stay another six months. We
2 can work together. Then, sometimes I sign the letter;
3 sometimes he signed the letter.

4 We work with him in order we need time to know the
5 country, to know a lot of things and to train, also. This is
6 the reason we keep him sign. We keep him work with us until
7 he left.

8 Q. In the letter it refers to Mr. Sami Khoshaba as being in
9 the public affairs branch in Washington?

10 A. There is a mistake. They correct it here, and also in
11 Arabic. Correct it, you know, the headquarters or the
12 station -- no, I think in headquarters they correct it.
13 Between two brackets they put "Athens."

14 Q. So you are saying that it was somebody in Baghdad who
15 changed it from "Washington" to "Athens"?

16 A. Yes, sir. It is here written.

17 Q. Do you know who in Baghdad changed it?

18 A. I don't know, because it should be case officer, you
19 know, understand, and he change it. It is not a big mistake.

20 Q. I didn't hear that last answer.

21 A. I think this is not a big mistake, you know, because
22 when they wrote, they see Washington, Athens. And even
23 though don't inform Washington, why you do this mistake?
24 Case officer put "Athens," and that's it.

25 Q. So you are saying that when your predecessor signed this

1 letter saying that Mr. Latchin worked in Washington, that was
2 a mistake?

3 A. Yes. Yeah. In Washington, when the case officer wrote,
4 you know, even the chief of station, case officer and the
5 member, they don't, you know, even notice this mistake, but
6 the mistake is corrected by the IIS headquarters.

7 Q. Let's take a look at the Jeto file. I am going to hand
8 you Jeto Group Exhibit 1.

9 (Exhibit tendered.)

10 BY MR. THEIS:

11 Q. Take a look at Page 2-15, please.

12 A. Yes, sir.

13 Q. This is a letter from the Athens station to Baghdad; is
14 that correct?

15 A. Yes, sir.

16 Q. This letter, at the top, has two serial numbers, 15 and
17 21; is that right?

18 A. No. This is -- yeah. 15 and 21, yes.

19 Q. How does that happen, that the same letter has two
20 different serial numbers on it?

21 A. I don't know. Really, I can't tell you. Because,
22 again, it doesn't mean anything for me for intelligence
23 purposes.

24 Q. But there is a reason why people put those serial
25 numbers on it?

1 A. Yes, there is a reason. Maybe for administration, not
2 for intelligence purposes.

3 Q. And the reason the administrative people put these on
4 there is so that the case officer can look at the file --

5 A. Even -- sorry. Even not case officer. Maybe
6 administration people. Case officers, director, general
7 director look only this letter, sir (indicating). If there
8 is no number here, no date, no one signed the letter, they
9 say this is not normal.

10 But put hundreds of names, just like this one, no
11 one look for intelligence purposes. This is administration.

12 Q. But administration is important for everyone else to do
13 their job, right?

14 A. For them. Not for intelligence.

15 Q. Well, if you are an intelligence officer and the file
16 has got the pages all jumbled up and no serial numbers, then
17 you've got to read the whole file in order to find something
18 you are interested in, right?

19 A. I can tell you, sir, most our file in IIS, it is mess.
20 You can find letter No. 1 in 1968, and after that, you find
21 in 2005, because always, take some letter -- you know, some
22 file become just like this big (indicating), and then, when
23 you like to forward it for some cases, they don't put all
24 file. They took only three, four letter and put it in a
25 small file and forward it with the number 1 or number 2.

1 Q. Take a look, please, at Jeto 2-10.

2 A. Yes, sir.

3 Q. That one has a serial number of 15 on it, correct?

4 A. Yes, sir. Yes, sir.

5 MR. THEIS: Judge, I need to confer with Mr. Conway
6 for a second.

7 (A discussion was had between counsel off the
8 record.)

9 BY MR. THEIS:

10 Q. May I take a look at the paper file for a second?

11 A. Yes, sir.

12 (Documents tendered.)

13 MR. THEIS: If I can have a second, your Honor. We
14 had a mix-up, and I never saw the translation of this.

15 (Brief pause.)

16 BY MR. THEIS:

17 Q. Sir, in the file, between 2-11 and 2-12, there is this
18 an extra piece of paper here.

19 Do you have that in front of you?

20 A. 2-11?

21 Q. Between 2-11 and 2-12. It may have a marker.

22 A. Yeah, yes.

23 Q. It's marked "2-12 extra"?

24 A. 2-11. 2-11, this is a letter from Athens.

25 Q. And then, besides 2-11, we have got something that's

1 marked "2-12 extra"?

2 A. Yes.

3 Q. Okay.

4 Some of the material on that is whited out; is that
5 correct?

6 A. Yes, if there is a mistake and like to correct.

7 Q. I am sorry. What?

8 A. There is a mistake, you know, maybe, and just correct it
9 by mark -- you know, by correction.

10 Q. Do you know it was a mistake? Or was it somebody
11 changing his mind?

12 A. No. This is -- in the beginning, the first mistake,
13 they like to say he is available in Athens, but, you know,
14 say, you know, he is available in America.

15 Q. So how do you know that that's a mistake as opposed to
16 someone --

17 A. Yeah, because this is -- he already now be in America,
18 and I can read what he correct. He say, you know, he is just
19 put two letter of Athens, and then, you know, just correct it
20 and say available in America.

21 The second mistake, he like to write Iraqi
22 Interests Section. He wrote "American Interests Section" and
23 then correct the "American."

24 Q. At the time that was written in 1983, did Iraq have an
25 embassy in the United States?

1 A. Iraqi Interests Section. Not embassy.

2 Q. You came to the embassy in May of 1984?

3 A. Correct.

4 Q. Was it an embassy at that point?

5 A. No, Iraqi Interests Section.

6 Q. When did it become a full embassy?

7 A. I think late '84 or beginning '85. I am not sure.

8 Q. And before that, when had the embassy closed and an
9 interests section opened?

10 A. Then, the embassy closed in 1991.

11 Q. I want to go backward.

12 You say, when you came in '84, it was an interests
13 section?

14 A. Exactly.

15 Q. And at some point there was probably an embassy in
16 Washington?

17 A. The same embassy. Only the name has changed.

18 Q. When did that change from "embassy" to "interests
19 section"?

20 A. I think in 1976. I was a student. I don't know what
21 time.

22 Q. Take a look, please, at 2-8.

23 A. Yes, sir.

24 Q. That has a serial number of 13, correct?

25 A. Yes, sir.

1 Q. And then, 2-12, look at that, if you would, please.

2 A. Which one?

3 Q. 2-12.

4 A. 2-12. Yes, sir.

5 Q. That has a serial number of 13, also?

6 A. It is 14.

7 Q. The translation says "13." Is the translation wrong?

8 Is that what you are saying?

9 A. Just a second. Here, what I see, 13. It is 2-12?

10 Yeah. It's 13.

11 Q. So 2-12 is No. 13?

12 A. 2-12, No. 13, yes.

13 Q. Okay.

14 So in the file, we have got two different documents
15 that have the same serial number of 13; is that right?

16 A. Yeah.

17 Q. Take a look at the very last page of the file, which
18 purports to be an index of the file.

19 A. Yes, sir.

20 Q. I think it's called PDF last page, or maybe it's PDF 3,
21 but it's only one page long.

22 A. The serial, this one (indicating)?

23 Q. We are looking at the index.

24 A. Yeah, that is last page, yeah.

25 Q. Okay.

1 Now, in there, there is an entry for a Document 17?

2 A. Yes.

3 Q. That's described as No. 492; is that right?

4 A. 492 to SH-8, Section 8, dated December 24th, 1983.

5 Q. Take a look, if you would, please, at 1-28.

6 Do you have that in front of you?

7 A. Just a second, sir.

8 (Brief pause.)

9 BY THE WITNESS:

10 A. 1-28 or only 28?

11 BY MR. THEIS:

12 Q. 1-28.

13 A. I don't see here 1-28.

14 Q. How about 28?

15 A. Yeah, 28. I think it is right here.

16 ~~THE COURT: After this document, we will take a~~
17 break.

18 BY THE WITNESS:

19 A. This is 28. It's here, the same.

20 BY MR. THEIS:

21 Q. All right.

22 1-28 is a letter from the Iraqi Interests Section;
23 is that right?

24 A. This is just the paper from Iraqi Interests Section, but
25 this is a letter from the station.

1 Q. It's dated August the 9th, 1984?

2 A. Yes.

3 Q. It originally had a serial number of 17; is that right?

4 A. Down? M/17/628?

5 Q. But up near --

6 A. Yeah, yeah.

7 Q. -- Iraqi Interests Section, it says "17," right?

8 A. After that there is -- the number is M/17/628. This is
9 right?

10 Q. That is there. Is the number 26 in the upper corner of
11 the letter?

12 A. Yes.

13 Q. Right in that same vicinity there is the number 17,
14 correct?

15 A. This is -- they scratch it.

16 Q. I can't hear what you're --

17 A. Somebody scratch this number.

18 THE COURT: Somebody scratched it out?

19 THE WITNESS: Yeah.

20 BY MR. THEIS:

21 Q. Do you know what happened there? Why it was scratched
22 out?

23 A. At that time, you know, this is maybe -- there is M
24 maybe for -- this is a code for M17. I don't know which. I
25 was in the station, and I don't know M17, which M, at that

1 time, because they keep changing the M sometimes for security
2 reasons.

3 Q. Was the 17 a serial number on that letter?

4 A. No. This is, you know, maybe for -- you see here, if
5 you go back to the number for the station, M/17/628, that
6 means, you know, at that time maybe the hostile section is
7 number 17. I am not sure about -- this is -- because even
8 the station mentioned M17.

9 MR. THEIS: Judge, I have got one more document in
10 this file. If you wanted to --

11 THE COURT: All right. Let's do one more document,
12 and then we will take a break.

13 MR. THEIS: Okay.

14 BY MR. THEIS:

15 Q. Take a look, please, at 1-26.

16 A. Only 26, I think I have one. There is no dash.

17 Q. All right. But it's a letter or it's a writing on the
18 letterhead of the Iraqi Interests Section; is that right?

19 A. Yeah.

20 Q. Dated October 25th, 1984?

21 A. Yeah. It is October 25th, '84, yes.

22 Q. And in there, it says that Mr. Jeto's secret number,
23 2509, is the same number that was assigned to a Mr. --

24 A. Dhafir -- Dhafir Kame1 Hashim, yes.

25 THE COURT REPORTER: I'm sorry?

1 BY THE WITNESS:

2 A. You know, this is -- I remember it very well.

3 BY MR. THEIS:

4 Q. Excuse me, sir. Let me just answer the question.

5 MR. THEIS: Dhafir is D-h-a-f-i-r; Kame1,
6 K-a-m-e-1; and then last word is Hashim, H-a-s-h-i-m.

7 BY MR. THEIS:

8 Q. So you were saying?

9 A. I remember because they give that same number to two
10 sources. And then we like to correct them. This number
11 belong to other source. Why you gave it to this number and
12 to this source?

13 Q. So who kept the number 2509? Was it Mr. Jeto or
14 Mr. Hashim?

15 A. I am not sure about this.

16 Q. ~~Is that something that would be shown on the file?~~

17 A. I assume to Mr. Hashim, Dhafir Hashim.

18 Q. You assume he kept the number?

19 A. I think so, but I am not sure about this, you know.

20 Q. So that would mean that someone had to give a new
21 number --

22 A. Yeah.

23 Q. -- to Mr. Jeto?

24 A. Yes, sir.

25 MR. THEIS: That's all I have on the Jeto file

1 right now, your Honor.

2 THE COURT: All right. We will take another short
3 recess, and maybe the next session will be our last one for
4 the day. So resume about 3:30.

5 (A brief recess was taken at 3:16 p.m. until 3:34
6 p.m.)

7 THE COURT: You may proceed, Mr. Theis.

8 MR. THEIS: Thank you, your Honor.

9 BY MR. THEIS:

10 Q. Mr. Al-Dani, I am going to hand you Albazi Group
11 Exhibit 1.

12 (Exhibit tendered.)

13 BY THE WITNESS:

14 A. Yes, sir.

15 BY MR. THEIS:

16 Q. And once again, I would like you to look at the outside
17 cover.

18 At the bottom someone has written a number; is that
19 right?

20 A. Yeah.

21 Q. What is that number?

22 A. This number, it is written -- first, they make a
23 mistake, write "79."

24 Q. Yes.

25 A. But they correct it, because here the number is 78.

1 Q. And "here" meaning higher up on the page someone has
2 written 78?

3 A. Yeah, because I think this is a correct serial number,
4 78, but some -- another one put here 79. It is a clear 79,
5 but they correct it by the marker, make it 78 again.

6 Q. And I have to ask you the question I have asked you
7 before. Do you know what that 78 means?

8 A. Really, I don't know.

9 Q. Also on there, someone has written "16." Do you see
10 that?

11 A. (No response.)

12 Q. Our digital version shows a 16, but does your paper
13 copy, your original, show a 16?

14 A. Nothing is 16.

15 Q. So the only number on there is 78?

16 A. Three numbers, 725 -- and yeah.

17 Q. It's in the lower left -- the lower right corner.

18 A. Yeah, 725.

19 Q. Okay.

20 A. And here is 78. Here is 78. But here there is no
21 number 16.

22 MR. THEIS: So just so our record is clear, on the
23 original document itself there is no number 16.

24 THE COURT: That may be -- does it look like it's a
25 Post-it that somebody attached?

1 MR. THEIS: It could be.

2 THE WITNESS: It could be. Here is number, here is
3 number, here is number, but here is nothing (indicating).

4 THE COURT: Right. Okay.

5 BY MR. THEIS:

6 Q. Although, the translator has actually put in, as part of
7 the translation, the number 16, correct?

8 A. Yes.

9 Q. Now, that number in the lower right-hand corner you
10 referred to, did you say that was 720?

11 A. 725.

12 Q. 725?

13 A. Yeah.

14 Q. Is that written over another number?

15 A. Yes. It is written in regular pen and somebody correct
16 ~~it on marker and mess it up. He should, you know, remove~~
17 this 5 number, because here is zero, but the original number
18 725, and the marker written 725.

19 Q. Do you know what the number 725 signifies on there?

20 A. I don't know.

21 Q. Do you have any idea who wrote it on there?

22 A. No.

23 Q. Or when they wrote it on there?

24 A. No.

25 Q. If I may have that file back, please.

1 A. Okay.

2 Q. One final question.

3 In the middle of the page, someone has whited out
4 and then written "78" on top of the whited-out portion. Do
5 you see that?

6 A. Yeah. This is marker. It is not clear which number
7 this is. I think here also it is written 79. Here "9" is
8 clear, and also they correct it.

9 Q. Okay. So both on top and bottom --

10 A. Yeah.

11 Q. -- 79 has been changed to --

12 A. Here it is a clear 79. But here only 9 is clear, and 7
13 already, you know, wipe it up, you know. And I think also
14 79, 79, both corrected to 78.

15 Q. Do you know that those corrections were made at the same
16 time?

17 A. It doesn't mention when they make it.

18 Q. And one of the corrections is made with a whiteout,
19 correct?

20 A. Yes.

21 Q. And one of them is just by writing on top --

22 A. Yeah.

23 Q. -- of the other number?

24 A. Yes.

25 Q. You have testified that Mr. Latchin was an officer in

1 the IIS; is that right?

2 A. Yes.

3 Q. As an officer in the IIS, would he have an official
4 file?

5 A. Should be.

6 Q. Should?

7 A. There is an administration file. When he get appointed,
8 it does not belong to M4. You know, just there is
9 administration. We call it section or directory, you know.
10 And these when you first hire the person, when he get a
11 promotion, when he get, you know, demotion, anything, this is
12 administration. But they don't tell anything, only the rank
13 and when he get promoted to other rank. All this is in
14 administration section.

15 Q. Now, I think you said he should have such a file. Is
16 that what you said?

17 MR. CONWAY: Judge, I am going to object to the
18 relevance of this. The purpose of this hearing is to talk
19 about recruit files and the authenticity of the files we are
20 offering. It has nothing to do with any paperwork that they
21 may have on Mr. Latchin.

22 MR. THEIS: No, the government, at the very end of
23 its presentation, presented a document which it says is a
24 receipt given by Mr. Latchin for payments he received as an
25 IIS officer. And in addition to that, the witness has

1 testified at length to the allegation that Mr. Latchin was an
2 IIS officer.

3 So since we've got what is purported to be an IIS
4 document on the table regarding Mr. Latchin's services as a
5 case officer, I am trying to find out what should be there,
6 because at this point, the only thing we have got is that
7 receipt. We have nothing else. And I want to find out
8 whether something else should be there; and if it's not
9 there, why it's not there.

10 And that really goes to the admissibility of this
11 one or, however you want to count it, two pieces of paper
12 that say he got a payment.

13 If all that the government can come into court with
14 is two pieces of paper out of what should be hundreds of
15 pieces of paper, not only the ultimate trier of fact, but
16 you, as the traffic cop, if you will, of evidentiary
17 questions could reasonably come to the conclusion that there
18 is something extremely inauthentic about those two pieces of
19 paper.

20 MR. CONWAY: Well, then, I think as to that, Judge,
21 the specific question would be, were those particular types
22 of files kept? But, again, the document, in our position, is
23 self-authenticating, in that we will have an individual who
24 signed that document come in and explain the document to us.

25 So it might be a little far afield to be talking

1 about vouchers in general from that aspect.

2 MR. THEIS: We didn't bring up this subject. It
3 was the government who put in the voucher and opened this
4 subject.

5 THE COURT: You know, I suspect you will get an
6 answer to this question faster than we would -- in less time
7 than we would spend on the objection.

8 Overruled.

9 MR. THEIS: Of course I have forgotten what the
10 pending question was.

11 THE COURT: Do you want to read that back for us,
12 Fran.

13 (Question read.)

14 BY THE WITNESS:

15 A. Yes.

16 BY MR. THEIS:

17 Q. So your testimony was, he should have such a file?

18 A. This file, which we now talking about, it belongs to M4.
19 And the money he received belonged to M4, because it is
20 intelligence.

21 Other file in administration, it should be a file.
22 This file contain only, you know, administration, when they
23 hire, when they promoted, but nothing intelligence in this
24 file.

25 Q. Every case officer in the IIS has one of these

1 administrative files; is that correct?

2 A. Should be. But I am not sure about that. I understand
3 they put it in computer later. First I heard, 1991, M65 and
4 M2, which is administration, because, you know, the bunkers
5 in Iran (unintelligible), most of the file is burned. I am
6 sure they told me about it.

7 But, anyhow, I think they put it in computer, also,
8 you now, when you get out the salary, monthly payment. There
9 should be an administration file or papers. It doesn't --
10 you know, maybe not file. Maybe bunch of papers.

11 I am not work -- I am not familiar with
12 administration. This is other secret things, and they don't
13 show it to anyone. They don't -- no one have access to his
14 file for administration file or loyalty file, because there
15 is special people, you know, judge the loyalty of IIS
16 employee and how they perform, demotion, promotion, on all
17 these things.

18 For us, as M4 officer, we don't know any, and we
19 don't have any access to these files. Maybe files. Maybe
20 paper. Maybe desk. I can't tell you. Maybe bunch of files.
21 Maybe a lot of file. You know, officer put it on just like
22 box files. I am not sure about this. I am not work even
23 single day for administration.

24 Q. Have you ever seen your own administrative file?

25 A. No.

1 Q. Have you ever seen an administrative file for
2 Mr. Latchin?

3 A. No, not at all.

4 Q. You testified last month that there was a separate file
5 for Mr. Latchin as part of his participation in the planting
6 program. Do you remember that?

7 A. Planting?

8 Q. Yes.

9 A. Yes.

10 Q. Did you ever see that file?

11 A. I saw it many times.

12 Q. Where was that file kept?

13 A. M4, special committee.

14 Q. Special what?

15 A. Committee.

16 Q. What would be in that file?

17 A. That be, you know, the form that, you know, the case
18 officer who trained him, how facilitate his trips to -- I
19 think just to Romania and then to come to United States and
20 how much money he received. All this stuff.

21 Q. So that file would include payments that he received
22 during the planning program; is that correct?

23 A. Yes.

24 Q. Anything else that that file should have contained?

25 A. You know, I can't tell you. It is not my business. I

1 saw his file just like with every day hundreds of file. But
2 I can tell you I saw the file and I put some note for this
3 file.

4 Q. You took some what?

5 A. I am just give my, you know, an advice, you know, how
6 case officer should travel, you know, how cover he should use
7 to meet him, you know. I just -- I had a comment on this
8 file, you know, when -- I think in 1992 or '91, when the case
9 officer, like, he traveled to meet him in Romania first time.
10 And I saw the file, and after that, until I left, I saw the
11 file two, three times, you know.

12 But I am not going to read -- if I read all his
13 files and all the other files, it needs me each day to make a
14 hundred hours to finish my files. I just read, you know, the
15 last letter only maybe and go through, you know, because we
16 like to judge the last, you know, letter forwarded to the
17 general director of M4.

18 Q. How many IIS officers were planted in the United States
19 as part of this program?

20 A. I don't know if I can answer this question.

21 Q. You know, but you don't want to tell me. Is that what
22 you are saying?

23 A. Maybe I am not allowed to answer. I don't know.

24 MR. CONWAY: Judge, I believe the witness is
25 allowed to answer that question.

1 THE COURT: You may answer that question,
2 Mr. Al-Dani.

3 BY THE WITNESS:

4 A. I know there is another low-rank employee. It's not
5 called -- just like similar to the plant, but he is IIS
6 employee.

7 BY MR. THEIS:

8 Q. Well, was he planted the same way Mr. Latchin was
9 supposedly planted?

10 A. No, no. He is completely 100 percent different, because
11 another one, just like a clerk.

12 Q. Another one what?

13 A. Just like a clerk. You know, I think a driver. He was
14 a driver in the IIS, and he like to come to join his family.
15 And we just trained him. You know, they trained him how to
16 go there and there. And they don't mention, you know, you
17 know, how much they paid him or nothing on that. We can call
18 it similar to planting, but not, you know, big case. I don't
19 know other things.

20 Q. Well, was Mr. Latchin the only person who was sent to
21 the United States to be a planted spy?

22 A. He and another one is IIS employee, but not the same
23 planting.

24 Q. So --

25 A. Similar, you know. But because his rank is very low, I

1 am telling you he was a driver in IIS, and he like to come to
2 join his family. And, you know, IIS seize the opportunity to
3 give him training, facilitate his trips, and so and so, and I
4 don't know other detail. If they paid him or not, I don't
5 know.

6 Q. So out of the IIS, only two people were sent over to the
7 United States as plants; is that correct?

8 A. Yes.

9 Q. Were plants sent to other countries besides the United
10 States?

11 A. I don't know if I can answer this question.

12 MR. CONWAY: Judge, objection to the relevance of
13 this.

14 THE COURT: Sustained.

15 BY THE WITNESS:

16 A. I don't know if I can answer this question because --

17 THE COURT: There was an objection, Mr. Al-Dani,
18 sustained. It means you don't have to answer the question.

19 THE WITNESS: Okay. I am sorry.

20 BY MR. THEIS:

21 Q. You defected from the IIS in 1999; is that right?

22 A. Yes, sir.

23 Q. Approximately when in 1999 did you do that?

24 A. March, 10th of March 1999.

25 Q. At that point you were stationed in India?

1 A. Yes.

2 Q. In order to defect, did you go to the U.S. embassy in
3 India?

4 MR. CONWAY: Judge, objection to the relevance.

5 MR. THEIS: I am trying to lay foundation for some
6 statements that we have to get into.

7 THE COURT: I will allow it.

8 You may answer.

9 BY MR. THEIS:

10 Q. Did you go to the U.S. embassy in India to do that?

11 A. I can answer this question? I don't know.

12 Q. You don't know where you went?

13 THE COURT: You can answer that question.

14 BY THE WITNESS:

15 A. I know, you know, when I left India, March 10th, 1999.

16 ~~But I don't maybe is allowed to give you detail when I went~~
17 ~~and then when I -- maybe third countries, when I enter United~~
18 ~~States. I don't know.~~

19 MR. CONWAY: Judge, objection to all of this.

20 THE COURT: Okay. Tell me why this foundation is
21 necessary, Mr. Theis. Why his defection conduct --

22 MR. THEIS: Your Honor, the government has given us
23 some highly sanitized versions of statements that Mr. Al-Dani
24 made in 1999, some of them in May, some of them in June, that
25 are directly contradictory with the testimony that he offered

1 a month ago. And I am trying to lay the foundation for that.
2 That's where we are going. And I know it's not a place where
3 the government wants to be; but, unfortunately for them, we
4 are going there.

5 MR. CONWAY: Your Honor, first of all, the subject
6 matter in question was a subject of a matter before the
7 Court. He has been provided this pursuant to that matter.

8 If he wants to go -- to the extent he believes
9 there is impeachment or whatever, he can directly lead the
10 witness to say, didn't you make a statement to someone and
11 said this? I mean, where it happened, to who it happened,
12 all that is irrelevant and not part of the summary.

13 MS. PETERS: What he is describing, your Honor, are
14 these summaries that were provided pursuant to a previous
15 order of this Court.

16 THE COURT: Right, right.

17 You want to impeach him on those statements?

18 MR. THEIS: Correct.

19 THE COURT: You are welcome to do that. But I
20 think Mr. Conway is correct. You can ask about the specific
21 statements there.

22 MR. THEIS: It's a little hard for me to think of
23 these as specific statements because there is at least three
24 of them that are said to take place in May. Two of them
25 don't have a specific date. So it's really hard for me to

1 distinguish which statements we are talking about. And it
2 may even be even harder for the witness to distinguish. And
3 we have got two statements in June, and then we have got a
4 statement at some unidentified time in July.

5 Now, I am willing to do my best, but I think -- I
6 am also trying to make sure that I understand the Court's
7 ruling in these matters.

8 It's been represented to me that what I call the
9 sanitized versions are versions that you have approved,
10 apparently according to CIPA, meaning that's all I am going
11 to get and no more. But I think I would like to have
12 something a little more definitive from the Court telling me
13 that's all I am getting and no more.

14 THE COURT: Well, with respect to this objection,
15 though, I thought your point was that there is -- I thought
16 what you told me a moment ago was that some of the testimony
17 last time that we were together was, in your view,
18 inconsistent with what shows up in this disclosure.

19 MR. THEIS: That's correct.

20 THE COURT: All right. Then, why not just zero in
21 on those statements and his testimony to the contrary?

22 MR. THEIS: I will be happy to do that.

23 THE COURT: And if he is having trouble remembering
24 this or that, you are welcome to show him, I think, that
25 document.

1 MR. THEIS: I am willing to try that, but this is
2 not a document that he drafted.

3 THE COURT: Nonetheless.

4 MR. THEIS: It's been drafted by layers of lawyers,
5 some of whom aren't even in this courtroom. And I doubt he
6 has even seen it before.

7 THE COURT: Nonetheless.

8 MR. CONWAY: Proper impeachment is to be precise
9 and to say, did you say X or not on or about this time? And
10 you can get the answer and we will take it from there, rather
11 than -- I am done.

12 BY MR. THEIS:

13 Q. Mr. Al-Dani, in May of 1999 -- and I can't give you a
14 specific date, because I haven't been given one -- you told
15 someone from the U.S. government -- and I don't know who,
16 because I haven't been told who -- that you knew about a
17 planting program in the U.S.

18 Do you remember a conversation along those lines?

19 A. This, you know, I remember, you know, I know this
20 planting is about, you know, his case. But I don't know what
21 other details -- who, you know, I don't know.

22 Q. Well, let's just stay with the basics.

23 You do remember saying to people from the U.S.
24 government in May of 1999 --

25 A. I don't know exactly in May. Maybe in June. Maybe in

1 July. For planting, I am not sure about that.

2 Q. Actually, you told them about the planting program on
3 more than one occasion?

4 A. Yes.

5 Q. And this was all in 1999?

6 A. In 1999, yes.

7 Q. And there may have been other occasions in other years,
8 but we can agree that you had multiple conversations in 1999
9 with the U.S. government about the planting program, correct?

10 A. Yes.

11 Q. In one of those conversations, you said that you knew
12 about this program because you were friends with another IIS
13 officer who was handling it, correct?

14 A. Not correct.

15 Q. All right. What did you tell them?

16 A. I told them I know Latchin case officer, and I know
17 him -- all the details about his case. But for planting,
18 because my position as senior officer in IIS, I know the
19 order coming from Saddam. This is the correct answer.

20 Q. Well, in 1999, you say you knew that the order came from
21 Saddam?

22 A. Yes.

23 Q. But what I want to get into is, what did you tell the
24 U.S. government in 1999?

25 MR. CONWAY: Judge, objection. The question should

1 have a predicate question. Were you particularly asked this
2 particular question at that time and did you answer it? Then
3 he can impeach him with the statement.

4 THE COURT: Well, but the trouble is, with that,
5 Mr. Theis doesn't have any transcript, were you asked this
6 question and were you given that answer? I am assuming he
7 doesn't have a transcript.

8 MR. THEIS: I don't even have an investigative
9 report. All I have got is some lawyer's statement, three
10 times removed.

11 THE COURT: The objection to this question is
12 overruled.

13 BY MR. THEIS:

14 Q. Do you recall how many conversations you had with the
15 U.S. government in 1999 regarding --

16 A. I don't know.

17 Q. May of 1999 --

18 A. I don't know.

19 Q. -- regarding the planting program?

20 A. I can't remember, you know, how many conversations, but
21 I know I mentioned this.

22 Q. Did you ever once, in any of those conversations, tell
23 people from the U.S. government that you were part of the
24 committee selecting people to be in the planting program?

25 A. I don't know. Maybe I can answer this question or not?

1 THE COURT: What did you say? I'm sorry. You are
2 not sure whether you can answer this question?

3 The question is whether you told the U.S. that you
4 were part of the people -- one of the persons that picked
5 out --

6 THE WITNESS: Yeah. I mean, I can answer this
7 question or not? I don't know.

8 BY MR. THEIS:

9 Q. I am asking you the question.

10 A. Yeah, but I --

11 Q. If you know the answer, the Judge is --

12 THE COURT: You may answer unless there is an
13 objection.

14 BY THE WITNESS:

15 A. Okay. Yeah, I told them.

16 BY MR. THEIS:

17 Q. So you told people from the U.S. government that you
18 were part of this committee to choose the people in the
19 planting program?

20 A. Yes.

21 Q. Do you recall when you told them that you were on the
22 committee?

23 A. You mean when I told them?

24 Q. Yes.

25 A. When I told them? I think on many occasions. I don't

1 know which year. I am sure in '99, yes.

2 Q. Do you recall how many times you met with people from
3 the U.S. government in 1999?

4 MR. CONWAY: Objection to that, Judge.

5 THE COURT: Well, it was asked and answered. He
6 says he does not recall how many times.

7 BY MR. THEIS:

8 Q. Do you recall how many times you talked with people from
9 the U.S. government in 1999 about the planting program?

10 MR. CONWAY: Objection, your Honor.

11 THE COURT: Overruled.

12 You may answer.

13 Do you recall how many times?

14 THE WITNESS: What?

15 THE COURT: Do you recall how many times you talked
16 to the government --

17 THE WITNESS: We talked, I think, you know --

18 MS. PETERS: Judge, objection. Relevance to this
19 question.

20 THE COURT: I will allow it.

21 Do you recall how many times?

22 THE WITNESS: You know, how many times I talk about
23 planting?

24 THE COURT: Yes.

25 THE WITNESS: I don't know how many.

1 BY MR. THEIS:

2 Q. When you would talk to people from the U.S. government
3 about the planting program, they were taking notes, correct?

4 A. I don't know.

5 Q. Were you sitting across the table from them in the same
6 room?

7 MR. CONWAY: Objection.

8 MS. PETERS: Objection, Judge. Relevance.

9 MR. THEIS: You know, if the witness is going to
10 try to hide behind, "I don't know whether they were taking
11 notes," I am allowed to pursue.

12 MS. PETERS: Your Honor, our objection is on
13 relevance grounds.

14 MR. THEIS: And it's highly relevant, because we
15 have got a witness who is contradicting what is in the
16 sanitized version. And we may have to deal with matters of
17 perfecting the impeachment. And I need to know what it is I
18 need to get into the record.

19 I am assuming there are notes. I don't know it.
20 The witness knows. And so now the only question is whether
21 we are going to block the witness from telling us whether
22 there were notes.

23 THE COURT: The witness just told us he doesn't
24 know. Now your question is to explore that.

25 MR. THEIS: Correct.

1 MS. PETERS: Your Honor --

2 MR. THEIS: Because it's a little hard to imagine
3 that someone can be interviewed and not know whether the
4 people interviewing were taking notes.

5 MS. PETERS: Your Honor, the point of the summary
6 is that counsel is not allowed to explore the summary. If
7 counsel has a problem with the adequacy of the summary, he
8 can file a written motion and ask you to make a review of the
9 adequacy of the summary.

10 MR. THEIS: You know, given the time of the day,
11 your Honor, I think that's an excellent idea. I would be
12 happy to prepare something in writing, because this summary
13 is totally deficient and is allowing someone who is an
14 out-and-out liar to hide and shift and weave, and this needs
15 to be delved into.

16 THE COURT: You are welcome to file whatever you
17 need to in writing.

18 Let's continue asking this witness questions.

19 BY MR. THEIS:

20 Q. When you talked to people from the U.S. government in
21 1999, you presented to them that the only reason you had any
22 knowledge about the planting program was because your friend
23 was involved in the planting program; is that right?

24 A. I answered you this question. I answered you. I
25 told -- you know, I know about general planting, and I know

1 the case because I know his case officer.

2 Q. And you told the people from the government in 1999 that
3 the only reason you knew about Mr. Latchin was because you
4 knew his case officer; is that right?

5 MR. CONWAY: Judge, objection. This has been asked
6 and answered and --

7 THE COURT: I am not sure this specific question
8 has been asked.

9 What don't you ask, did you tell them in so many
10 words?

11 MR. CONWAY: Judge, shouldn't there be a predicate
12 question first to impeach him on that? Was he asked that
13 question at the time?

14 THE COURT: It's not fair to require Mr. Theis to
15 ask that question, since he does not have a transcript or
16 other notes.

17 You may proceed.

18 MR. THEIS: Could we have that question read back
19 so the witness has it.

20 THE COURT: I think the question goes along these
21 lines: Did you tell the government that the only reason you
22 knew about the planting program was, and so on.

23 BY MR. THEIS:

24 Q. Was because your friend was Mr. Latchin's handler?

25 A. I am telling you, I know his case officer very well. In

1 my position as an adviser to M4 director, I saw his file.
2 And okay. As senior officer in M4, I know the order is
3 coming from Saddam, and I know planting operation in general.

4 Q. The question is, what did you tell the government in
5 1999?

6 Did you tell them the only reason you knew was
7 because you knew his handler?

8 A. The reason to know for him?

9 Q. Yes.

10 A. Yes, because I know -- you know, I saw the file and I
11 know case officer, also.

12 Q. No. What did you tell the people from the U.S.
13 government in 1999? Did you tell them everything you are
14 saying here today?

15 MS. PETERS: Objection. Relevance.

16 ~~MR. THEIS: Your Honor, he still has not answered~~
17 the question that you said he should be required to answer.
18 All I am trying to do is to get him to answer that question.

19 And it's a very simple concept. What did he say in
20 1999? Not what he claims to know today.

21 MS. PETERS: But the question needs to be put to
22 him, what did you tell them in 1999 with respect to a
23 particular subject matter, not just, what did you tell them
24 in '99?

25 THE COURT: I think that question is exactly what

1 was asked. I think that question is, what did you tell them
2 about the following subject matter: the reasons you know
3 about the planting program?

4 And Mr. Theis points out that one version is, I
5 only knew about it because I knew the person who was
6 supervising him.

7 Another version is, I know generally about the
8 planting program.

9 Those are two different answers, and I think we
10 have explored that. I don't know whether we need to go
11 beyond what I just outlined, but I think --

12 MR. THEIS: If he would just answer that first
13 question, I think we could move on to something else.

14 THE COURT: All right. Do you understand that
15 question, Mr. Al-Dani?

16 THE WITNESS: Yes. I think because I am not -- I
17 am not sure, Judge, I am allowed to go in detail what I am
18 telling the government.

19 THE COURT: I think you should assume that you may
20 answer the question unless there is an objection.

21 BY THE WITNESS:

22 A. I told him I know this case, Latchin case, for two
23 reasons. I told, you know, the government, in my position I
24 know. I have access. And then I know the details because
25 the case officer told me everything about this case. Yeah.

1 BY MR. THEIS:

2 Q. So in 1999 you said to the government, I have two
3 reasons to know, correct?

4 A. Yeah. Yes.

5 Q. One of them is because I was on the planting committee?

6 A. Yes.

7 Q. And the other reason is, I knew his case handler?

8 A. Yes.

9 MR. THEIS: Do you have Voucher 1 and Voucher 2?

10 BY MR. THEIS:

11 Q. Let me show you what's been marked as Voucher 1.

12 (Document tendered.)

13 BY MR. THEIS:

14 Q. This is dated in 2001, correct?

15 A. Yes, sir.

16 Q. Of course, you had left the IIS five years before then,
17 correct?

18 A. Yes. Not five years. 1999, I think. 1999, 2000, two,
19 almost three years.

20 Q. Do you recognize any of the handwriting on this
21 document?

22 A. The handwriting, I don't know. But I recognize the
23 signature.

24 Q. When you say "the signature," are you referring to the
25 title of the person, or are you referring to the actual

1 handwriting?

2 A. No. This signature (indicating).

3 Q. Pointing to what, sir? I can't see from here.

4 A. Just general director of M4. He sit on behalf
5 of general --

6 Q. So you can read that someone says, I signed this on
7 behalf of M4?

8 A. Yeah. I know this signature very well.

9 Q. And whose signature is that?

10 A. I think I can't tell. I think maybe I am not able to
11 answer this.

12 Q. What do you mean you are not able to answer?

13 THE COURT: You may answer unless there is an
14 objection.

15 MR. CONWAY: Judge, we do object. That is -- that
16 is one of our witnesses for the trial whose name is under the
17 protective order.

18 THE COURT: All right.

19 MR. THEIS: Oh, okay.

20 BY MR. THEIS:

21 Q. So you do recognize the person's signature, then?

22 A. He is my friend and my boss for couple of years.

23 Q. What about Government Exhibit Voucher No. 2?

24 A. This is a receipt. I know, you know, some names. I
25 know one name very well.

1 Q. Who do you know very well?

2 A. Ismaiel Mahmoud Ibrahim.

3 Q. And then, you say someone has signed to show that they
4 received the \$24,000?

5 A. Yeah. Exactly.

6 Q. And that's Abu Sarmad; is that your testimony?

7 A. Yes.

8 Q. And that sort of receipt, once the person gets the money
9 and signs it, where does that receipt go?

10 A. This receipt usually should go -- original receipt to
11 the accounting office, because in order to just to -- you
12 know, to settle the payment, because first they give it as a
13 loan to the case officer. Until the case officer received
14 the receipt, he forwarded it to, you know, accounting office
15 in order just, you know, to withdraw the money from his
16 account. Because it is already on his -- as a loan for him.
17 And to make settlement for the money, it is already
18 considered -- this money is stamped, and the source receive
19 it.

20 And they -- mostly sometimes they keep a copy of
21 the -- it depends about the case officer. Should keep a copy
22 on, you know, the case -- on the case file.

23 Q. So when the case officer receives the money from the
24 treasury, he has to sign a paper saying he borrowed this
25 money?

1 A. Yes.

2 Q. And that piece of paper that the case officer signs,
3 does that go into his administrative file?

4 A. No, it is accounting file this.

5 Q. Is it kept in that case officer's accounting file? He
6 has a separate accounting file?

7 A. They kept a copy, and they just -- we call it
8 notification, just like this. They send it to the M12, which
9 is accounting office, and just tell them -- you know, just
10 give the -- such an officer ten hundred thousand as a loan.

11 And then after that, you know, sometimes they don't
12 mention, you know, any name of the case. When the case
13 officer receives the money, they -- still this money is -- he
14 received it. He should, you know, submit a receipt or proof
15 that he already spend it or give it to somebody. Then, this,
16 what they did, they say this, and this mention, you know,
17 that -- they tell them there is a receipt in order just to
18 make settlement for the money.

19 Q. When the receipt comes back to the administrative office
20 or financial office, does that go into a file for the case
21 officer, or does it go into the file of the person who
22 actually was the ultimate recipient of the money?

23 A. This is on -- should be in the case file. This copy --
24 notification 100 percent should be a copy in the -- you know,
25 in the case, you know, on the person, the source or the case

1 or whatever.

2 Q. So if Abu Sarmad is getting this money, Voucher 1 and
3 Voucher 2 should go into a file for Abu Sarmad; is that
4 correct?

5 A. Yes, a copy. And original copy going to the accounting
6 office.

7 Q. And any other receipts for money --

8 A. By the way. Sorry.

9 Some case officer, they don't care if there is a
10 copy in the case. They just -- because they like to get rid
11 of the money.

12 Q. Now, if Abu Sarmad gets money on more than one
13 occasion --

14 A. Yeah.

15 Q. -- all those receipts are going to go into a single file
16 for Abu Sarmad; is that correct?

17 A. Should be a copy, but all original go to the accounting
18 office. And there is no file for an accounting. There is a
19 bunch of files.

20 Each year there is a receipt, you know, for
21 accounting. And then, when the year's ended, they close this
22 file and start it again. There is no file for each case in
23 accounting office, because only money. They don't care about
24 name.

25 Q. But somewhere in some division of IIS there is going to

1 be a file for Abu Sarmad, correct?

2 A. It should be.

3 Q. And in that file, among other things, are going to be
4 receipts for any money that Abu Sarmad has received?

5 A. Receipt not important. But notification should be,
6 because this notification, when they write it, they make
7 either duplicate copy or Xerox copy or they make two copies.

8 Q. And the notification you are referring to is Voucher 1?

9 A. Yeah. This notification, it should be, you know, two
10 copies, one in the Abu Sarmad file and one to accounting
11 office.

12 But for receipt, it depends about case officer.
13 Sometimes make a copy and put it as a proof for recruitment
14 or some, they don't put it.

15 Q. And accounting saves all the notifications; is that
16 correct?

17 A. Yes.

18 MR. THEIS: I am sort of at a natural break. I
19 estimate probably around another hour, so . . .

20 THE COURT: We should, then -- well, we need to
21 give Ms. Ishoo a break for sure. But maybe we should recess
22 until our next session. What's your view?

23 If we have got another hour, and recognizing we
24 can't go a full hour without a break for the interpreter, we
25 would be pushing on until almost 6:00.

1 MR. CONWAY: Because with travel, we would like to
2 get as much in as possible today.

3 MS. PETERS: If we could finish today, Judge, we
4 are game.

5 THE COURT: All right. Well, I will tell you what
6 I have got. I have got to be someplace that's more or less
7 in the Loop at about 6:30. So let's give the interpreter a
8 break and then push on.

9 MS. PETERS: Thank you, Judge.

10 (A brief recess was taken at 4:17 p.m. until 4:31
11 p.m.)

12 THE COURT: Folks, our interpreter is wearing out,
13 and so am I. We are just going to push on for half an hour.
14 I realize we may not finish, and we will just get as far as
15 we can.

16 Go ahead, Mr. Theis.

17 MS. JUDGE: Judge, can I go over those three issues
18 I wanted to cover before?

19 THE COURT: Sure.

20 MS. JUDGE: Because I need to cover those today as
21 opposed to next week.

22 THE COURT: Let's do that now, then. That's fine.

23 MS. JUDGE: One is very simple. We have an agreed
24 order for my client to travel to attend a wedding. I will
25 provide that to the Court. I sent a copy to the government.

1 THE COURT: All right. If you can submit that, I
2 can sign it.

3 MS. JUDGE: Thank you.

4 (Document tendered.)

5 MS. JUDGE: The second issue is an issue I've
6 mentioned in the past regarding a response to the Department
7 of Defense subpoenas. And I believe a full response is
8 necessary, in part, for this hearing. That's why I am
9 raising it now.

10 The issue is this, Judge: The Department of
11 Defense received our subpoenas. There was oral motions
12 against the subpoenas. Your Honor ordered that they comply
13 with the subpoena. In compliance with the subpoena, they
14 sent documents to the U.S. Attorney's Office. The U.S.
15 Attorney's Office sent us partial disclosure of those
16 documents.

17 Our argument is, we want full disclosure or we want
18 a motion or an objection based on the subpoena being overly
19 broad, or whatever their objection is. But we have raised
20 this several times, and we have seen no motion. One file in
21 particular regards documents deemed to be forgeries. And
22 that's very relevant for this hearing.

23 MR. CONWAY: Your Honor, I can address that very
24 quickly.

25 We already filed written objections with this

1 Court, in the first instance, when the subpoenas were served.
2 You said, try to work it out. We are trying to get documents
3 and see if they are even arguably relevant. And we are still
4 in the process. And I summarized that last time we were
5 here.

6 But if you want, on this particular point, I think
7 you could inquire right now why -- how is it possible that
8 there is anything relevant about asking the Department of the
9 Defense about forged documents in general?

10 If the particular question is, does the Department
11 of Defense have any evidence whatsoever that these particular
12 files are forged in any way whatsoever? I could see that.
13 But other than that, it's just an overbroad, irrelevant
14 question.

15 MS. JUDGE: I have two remarks to that.

16 MR. CONWAY: It has nothing to do with this case.

17 MS. JUDGE: I have two responses to that, Judge.

18 One is, if the government's objection -- I mean,
19 your Honor ruled that they have to comply with the subpoena.
20 I don't believe that there was -- I don't believe we left it
21 as, you two try to work it out and that's where this stands.

22 I think the government has to respond in a way that
23 says the subpoena is overly broad or something like that.
24 They don't respond, "it's irrelevant." That's not their
25 decision.

1 The Department of Defense is subpoenaed. In
2 response to our subpoena and what we have asked for and what
3 you have authorized, they are responding with a volume the
4 government has not provided to us, because they are deeming
5 that it's not relevant.

6 MR. CONWAY: No. She has a particular question she
7 just asked. And our response is that it's overbroad,
8 irrelevant to this entire case. We can talk about the other
9 issues in her subpoena at a later time, because we are trying
10 to see if anything is arguably relevant to those particular
11 issues.

12 So if the particular question is, does the
13 Department of Defense have anything at all about forged
14 documents as to these particular files? I understand that.
15 And to date, there is nothing from the Department of Defense
16 that suggests that.

17 Their subpoena says, does the Department of Defense
18 have any evidence at all about forged documents? Overly
19 broad. Irrelevant. It has nothing to do with this case.

20 THE COURT: Let me just back up.

21 Has a written response to the subpoena been
22 furnished, apart from just production of documents?

23 MR. CONWAY: We filed our objections, Judge. And
24 when we filed them, we came in court and you said, please try
25 to respond. And we took that to go back and look for

1 anything that is possibly arguably relevant. And we told you
2 we had to put our relevance overlay, because everything was
3 so overly broad.

4 And, again, referring back, any information about
5 retired Iraqi employees, totally overly broad and irrelevant.

6 But we are looking for stuff that has relation to
7 the case. We provided some documents. We are still looking
8 at a small universe of documents to see if they are even
9 closely arguably relevant to this case. But this is a good
10 one to show that what they are asking for is so overbroad.

11 So if they want to tailor their particular response
12 to, do you have any particular evidence that anything at all
13 in these files are forged? that's appropriate. And we have
14 nothing. And that is our response. And there is nothing
15 further to come of this.

16 But to ask the Department of Defense, have you ever
17 come across forged documents in your life, as an institution,
18 or forged documents in Iraq? is totally, totally outside the
19 scope of this case.

20 MS. JUDGE: Judge, I have two things.

21 One thing is, we have gone over this argument over
22 and over again. The last time we were here, you looked on
23 your docket. You said, I ruled at this date after your
24 filings. This is where we stand.

25 So right now the government is not complying with

1 the subpoena, and they have not filed an objection to the
2 subpoena being overly broad or any other thing.

3 MR. CONWAY: Then, Judge, we stand on our original
4 filing that we gave to you a year ago, saying our particular
5 responses were overly broad. And if you want, we can come in
6 and you can referee this sometime without this witness being
7 here. We should really get to the witness, because this
8 witness has nothing to do with whether or not the Department
9 of Defense has any evidence about forged documents in our
10 entire universe.

11 THE COURT: Okay.

12 MS. JUDGE: As I said, Judge, I have two points to
13 make. I didn't get to my second point.

14 The second point -- and I can pass it up to your
15 Honor -- is a copy of IIS documents given to us from the
16 Department of Defense, in response to our subpoena, that have
17 been deemed to be forgeries. They look very similar to the
18 documents that are in these files now.

19 We think it's very important for the Court and for
20 the parties to understand why these are deemed forgeries and
21 why the others are not. We want greater details. We want
22 the complete file, not the couple pages from the file the
23 government has decided to give to us.

24 If your Honor would like to see those documents, I
25 can pass them up now.

1 THE COURT: Sure.

2 MS. JUDGE: For the record, these have been
3 identified as Folder 2, Section 5, government of Iraq
4 destruction of records deemed forgeries. IRA C docs, Bates
5 stamped 58, 59, 60, 62, 63, 64, 65, 66, 67, 68, and 69.

6 The front cover reads, "This file contains five
7 pages of an Iraqi Intelligence Service operational order with
8 multiple copies of the same order in the file. This file has
9 been deemed to be a forgery. The order, Page 3 through 5,
10 has been translated verbatim."

11 I can tender this to the Court.

12 THE COURT: Sure.

13 (Document tendered.)

14 (Brief pause.)

15 THE COURT: Okay. I am not quite sure what to make
16 of this, but let me back up to the earlier issue, the one
17 regarding the subpoena.

18 A year ago the government objected. I did expect
19 that there would be some resolution, and it seems there is
20 not.

21 But if there is a subpoena and the response is
22 deemed inadequate by the defendants, I still need to know,
23 has there been a written response to the subpoena, apart from
24 a generalized objection to everything, to say, "With respect
25 to Paragraph No. 3 of your subpoena, we are producing the

1 following"?

2 MR. CONWAY: That's what we did a year ago, Judge.
3 We went through each line and every specific request and put
4 down our particular objections. And that's when you said --

5 THE COURT: Right. But I thought what you did at
6 that time was objected, and I thought you didn't produce
7 anything. Is that wrong?

8 MR. CONWAY: I don't think we produced anything at
9 the time of that submission --

10 THE COURT: Right. See, that's the problem.

11 MR. CONWAY: -- because that was the initial
12 submission. And now, what we have tried to do, when they
13 say, for example, we want the list of every retired employee
14 of IIS, we have gone through and tried to say, okay, that's
15 overly broad. That was our objection. We stated that.

16 But we will go back and try to refine and say, is
17 there a list that has Mr. Latchin's name or any of our
18 witnesses' names? and try to accommodate this overly broad
19 request because --

20 THE COURT: That sounds great. But let me just
21 make a slightly more specific suggestion, because this
22 happens in civil litigation all the time. It happens every
23 single week.

24 What you need to do in response to Ms. Judge's
25 subpoena is not only produce the things that you deem

1 relevant, which is appropriate, but identify in a written
2 statement in response to the subpoena, "We are producing the
3 following. We are not producing the following," whatever.
4 And I don't mean that you have to be specific of all the
5 things you are not producing. Normally that happens by way
6 of a privilege log. We don't need to do that here.

7 But what you would need to do, if that were, for
8 example, a request, is to say, "The names of all Iraqi --
9 retired Iraqi intelligence officers, that request is
10 overbroad. Answering further, we are producing the names of
11 all Iraqi intelligence officers who retired during the
12 following time period or who worked with Mr. Latchin or who
13 were employed in the Washington office," or whatever it might
14 be.

15 MR. CONWAY: We will do that, Judge.

16 THE COURT: And then once you have got that in
17 writing, Ms. Judge can then come tell me why she thinks
18 whatever it is you produced is really not enough, and I can
19 make the call.

20 Now, with respect to the other matter, with respect
21 to a file that has been deemed to be a forgery, one question
22 this raises is, who was it that deemed this to be a forgery?
23 And can that person explain why he or she deems this to be a
24 forgery but deems the documents in question here relevant --
25 legitimate?

1 MR. CONWAY: Your Honor, whoever that author was
2 has nothing to do with our case whatsoever and has not looked
3 at our documents. We have a specific finite set of eight
4 files here. No one, no one has said anything in there is
5 forged, especially no one from the Department of Defense has
6 looked at them. I mean, we have got them directly from Iraq.

7 THE COURT: Ms. Judge's view is that these
8 documents are similar to the ones that we have at issue here.

9 MR. CONWAY: But I am not offering those. I am not
10 offering those, so what does it matter if they are forged or
11 not?

12 MS. JUDGE: Because if the basis of their
13 authorization is that the letterhead and this and that and
14 the people that are on there is relevant, then it's important
15 to see the exact same letterhead on documents deemed to be
16 forgeries.

17 In part of our subpoena we asked for the documents
18 explaining exactly what you requested, which is, why are they
19 deemed forgeries? And we aren't getting that response.

20 MR. CONWAY: Well, we presume it's somebody from
21 the Department of Defense who eyeballed this and said, we
22 don't know, and we don't care, because it's not anything to
23 do with this case.

24 THE COURT: No. But at a minimum, it's appropriate
25 for you to explain what characteristics of these documents

1 differ from the ones that we have before us here in ways that
2 suggest that these documents are forgeries.

3 To the extent -- Ms. Judge is correct. To the
4 extent that there are characteristics of the documents at
5 issue in our case that are similar to those here, a fair
6 question is, what is it about these documents that generates
7 the conclusion that they are forged? And why are those
8 circumstances not before us with respect to these documents?
9 It's got to be a relatively simple matter.

10 MR. CONWAY: Judge, we can inquire. And, you know,
11 at the end of the day, we may never know who wrote that. I
12 don't know. We will look for that.

13 But we can recall this witness for that particular
14 point, if need be, if there is going to be more stuff
15 produced, but I don't think there will be. But if we could
16 move on and try to get this witness today, that would be
17 wonderful.

18 MS. JUDGE: That's fine, Judge.

19 Could we just get a date on when the government is
20 going to have to respond so that we can make sure this
21 gets --

22 MR. CONWAY: We are here next Friday, Judge. We
23 will inquire of the Department of Defense if they can provide
24 us the author, and we should know that by Friday.

25 THE COURT: That's great.

1 MS. JUDGE: Actually, I was referring to their
2 written submission against our subpoena.

3 THE COURT: I think that should happen before
4 Friday.

5 MR. CONWAY: Yeah. We will work on that, too.

6 THE COURT: All right. Further questions for the
7 witness?

8 BY MR. THEIS:

9 Q. Mr. Al-Dani, you have testified about these eight or
10 nine files that we have looked at over the last several days.

11 Before you came here to testify -- or before you
12 started testifying, were you shown any other similar files
13 and asked to look at them?

14 A. No. I saw, you know, this file and I saw a copy of this
15 file. It is the same. You know, it is the same, I think, as
16 I remember, you know. I saw a copy of these files and I saw
17 the files, also, itself. This is the same.

18 Q. But I am asking you, besides the files that we have
19 discussed in court, has the government asked you to take a
20 look at similar files for other people?

21 A. Other people? I don't know maybe I can answer this
22 question, you know, because . . .

23 Q. I am not hearing you, sir.

24 A. I don't -- maybe -- I don't know if I can answer this
25 question, you know, or not.

1 I saw this file, and I saw -- in my job, just like
2 I know myself, I know this file. It is original.

3 Q. Are you saying you don't know whether you can answer my
4 question?

5 A. Yeah. This is true, yeah. Yes. I don't know maybe if
6 I'm allowed to answer this question or not.

7 MR. CONWAY: Your Honor, if I might, and if the
8 specific question -- files relating to Mr. Latchin, would be
9 an appropriate question, perhaps, rather than being rather
10 broad maybe. I am not trying to suggest.

11 THE COURT: I don't think that was --

12 MR. THEIS: That was not my question, your Honor.

13 BY MR. THEIS:

14 Q. Mr. Al-Dani, when I ask you a question, is it important
15 to you to figure out whether you think the government wants
16 you to answer that question?

17 A. You know, maybe I don't allowed, because sometimes the
18 answer, you like me to give you a lot of details. What was
19 the plant of the world? What is the plant of anyplace? Or a
20 lot of details. This is -- I think it's not related to his
21 case.

22 Q. So you want to be very careful to answer only the
23 questions you think the government wants you to answer?

24 A. Not just this. When you ask me about anything of the
25 case, I answer you. But sometimes you ask me bigger

1 question.

2 Q. Do you understand, sir, that when I ask you a question,
3 it's the Judge who decides whether you should answer the
4 question?

5 A. Yes, if there is no objection, because for this case,
6 when you ask me about the files, the case, I answer you
7 immediately. But when you ask me other question, I don't
8 know maybe allowed to talk or not.

9 MR. THEIS: Your Honor, it's not my place. Could
10 you inform the witness that he shouldn't be making these
11 decisions.

12 THE COURT: I think I have.

13 Mr. Al-Dani, you need to answer every question
14 asked, unless there is an objection.

15 THE WITNESS: Yeah, of course. Sometimes I just
16 like to see -- if I feel I am not comfortable with the
17 question, you know, I like to see if there is objection or
18 not. This is why --

19 THE COURT: You know what? I think you should have
20 good confidence in these lawyers.

21 THE WITNESS: Yeah.

22 THE COURT: The lawyers here will object promptly
23 if they feel that a question that's being asked should not be
24 answered by you.

25 THE WITNESS: Judge, you see, sometimes I feel -- I

1 am intelligence officer. I know some questions, he answer
2 me, there is totally no relation with the case.

3 THE COURT: Sir, that really isn't your
4 determination to make.

5 THE WITNESS: You know, sometimes -- because when
6 he says, what is the other planting through the world? I
7 think there is no relation with this case.

8 THE COURT: You may be right, but that's really not
9 your determination to make.

10 THE WITNESS: Yeah. But if they told me there is
11 no objection, I will answer it. My pleasure to answer.

12 THE COURT: You must assume there is no objection
13 unless a lawyer makes an objection.

14 THE WITNESS: Okay.

15 THE COURT: You may proceed, Mr. Theis.

16 MR. THEIS: Thank you, your Honor.

17 BY MR. THEIS:

18 Q. Has the government asked you to look at any IIS files
19 other than the ones we have been discussing in court?

20 MR. CONWAY: Objection, your Honor.

21 MR. THEIS: It's foundation to the question of
22 authenticity. You know, I am asking him to find out if he --

23 THE COURT: If that's the direction you are going
24 in, that's fine. It would be a "yes" or "no" question.

25 You may answer.

1 MS. PETERS: Your Honor, we still -- if you could
2 hear us on our objection.

3 If Mr. Theis' question refers to the FBI agents and
4 the government counsel that are here in the courtroom, have
5 they showed him any other files, other than the ones that he
6 has looked at today? we have no objection to that question.

7 But the way it was phrased was, has anybody from
8 the government?

9 THE COURT: Well, okay. But the thrust of this
10 is -- the thrust of this relates to the authenticity of these
11 documents.

12 So perhaps what we ought to ask is about this
13 witness' general familiarity with other files, other than
14 Mr. Latchin.

15 MR. THEIS: And really, my question was meant to
16 encompass any employee of the government.

17 THE COURT: Correct. The issue is not which lawyer
18 or which individual might have shown him documents so much as
19 it is -- I think, based on what we heard today and the last
20 time we were together, this witness has seen other files and
21 can tell us that.

22 You may answer.

23 MS. PETERS: Seen other files in connection with
24 his duties as an IIS officer.

25 THE COURT: That's what I am talking about.

1 MR. CONWAY: He didn't ask that question.

2 MS. PETERS: He asked, has anybody from the
3 government shown you other files, other than these?

4 MR. THEIS: And they are correct about that. I am
5 asking, has anybody from the government shown him files,
6 other than the ones we have seen in court? which is a
7 perfectly proper question to get down to this nub of
8 authenticity.

9 MS. PETERS: That's the question to which we
10 object, unless he narrows it to government counsel for this
11 case or the FBI agents connected with the investigation of
12 this case. It is not relevant with respect to any -- that
13 anybody else from the government has shown him any other
14 files.

15 MR. THEIS: Who showed him the files is utterly
16 irrelevant. ~~What's relevant is whether he has -- how many~~
17 files he has looked at and how many he has spotted as
18 forgeries and how many not as forgeries. If he spotted
19 forgeries, what does he think makes for a forgery? so that we
20 can have some light in evaluating his testimony about the
21 files that are here.

22 THE COURT: Then why don't you simply ask him
23 whether he has spotted other files as forgeries.

24 MR. THEIS: I think as a foundation question, I
25 need to ask him, has he looked at any files other than these

1 eight or nine?

2 MS. PETERS: We would have no objection to the
3 question that your Honor posed.

4 THE COURT: But we know that he has seen other
5 files, because he is an IIS -- he testified he was an IIS
6 officer and was familiar with many files.

7 MR. THEIS: Right. But I am interested in the
8 files that he sees over in the U.S. as opposed to the ones
9 that he claims he saw in Baghdad, because that's the real
10 question. Are the ones that he is looking at here in the
11 U.S. really ones that existed in Baghdad? I assume he can
12 tell me he saw all sorts of files in Baghdad. If he can't
13 tell me that, then he has got no business even being here.

14 THE COURT: Sure. But, again, the legitimate
15 concern here is, what are the indicia of reliability
16 vis-à-vis these files? And to explore that, to ask, what
17 characteristics of other files might indicate that they were
18 not authentic or forged in some way? If you want to ask
19 those questions, that's fine.

20 I would agree with the government that the specific
21 circumstances in which Mr. Al-Dani might have been shown
22 other files, absent a relationship to this very litigation --
23 and by that I mean these prosecutors -- that that is not
24 relevant.

25 MR. THEIS: Your Honor, let me just say this. I am

1 not going to ask him, who showed you these other files? I
2 don't care. You know, I assume that there is somebody from
3 the CIA or the DIA or the what-IA that has shown him files.
4 And I don't really care about their identities. But I am
5 interested to know how many of these retrieved files from
6 Baghdad that are brought to the U.S. he has taken a look at
7 and whether or not he has seen any forgeries in them.

8 And so whether it was Ms. Peters who showed him the
9 file or some unknown CIA agent really is irrelevant. And I
10 am not trying to get at that.

11 THE COURT: Okay. Then, let's get back to my
12 question about, have you viewed other files that you deem to
13 be forgeries?

14 MR. THEIS: I am certainly willing to start there.

15 BY MR. THEIS:

16 Q. Have you ever seen something that was claimed to be an
17 IIS file that you thought contained forged information?

18 A. No.

19 THE WITNESS: I can tell you one thing, you know,
20 for the Judge. The Iraqi IIS, they are not able to forge two
21 lines.

22 THE COURT: They are not able to forge --

23 THE WITNESS: To forge two lines or to forge any
24 document because, in my experience, in 1991, you know, there
25 is -- you know, we ask secret operation to forge a passport

1 or driving license. They say to us, reply, we need a paper
2 similar. Then we get the paper. They said, we need the U.S.
3 passport, to see it. We get U.S. passport. After that they
4 say, you know, it is difficult.

5 I work -- they are not able to forge a single
6 document.

7 THE COURT: In other words, they don't have the
8 technical capability?

9 THE WITNESS: They don't -- yeah. The technical,
10 and they don't know anything. They don't know any killing
11 people.

12 BY MR. THEIS:

13 Q. So you are saying that the IIS is utterly incompetent at
14 forging documents?

15 A. In my experience. Maybe I don't know others. But when
16 I was, in 1991, we asked them, driving license --

17 Q. And "them" is who, now?

18 A. What?

19 Q. You say, "we asked them." Who is "them"?

20 A. You know, ask -- we call it secret operation.

21 Q. Is that a part of the IIS?

22 A. Part of -- yeah. It is M9 at that time. And we ask
23 them different things, and finally we don't get single
24 document. I am sure about this.

25 THE COURT: They were unable ever to produce a

1 forged document for you.

2 THE WITNESS: No.

3 BY MR. THEIS:

4 Q. And what about people outside of the Iraqi government;
5 are you saying that they are incapable of forging documents?

6 A. Not at all, because the most capable should be IIS. The
7 other is nothing.

8 MR. CONWAY: Judge, also objection to this. It's
9 all speculation.

10 THE COURT: The last question and answer will be
11 stricken.

12 You may proceed.

13 BY MR. THEIS:

14 Q. Do you have any training in recognizing forged
15 documents?

16 A. No.

17 Q. Have you, in your work for the IIS, ever been given an
18 assignment to examine documents for forgery?

19 A. No.

20 Q. Now, these files that we have looked at here, these are
21 files of people who are called collaborators; is that right?

22 A. There is two stage for these files. They start as agent
23 with the Athens station. When they transfer to Washington,
24 they make it less than that, as a friend. Sometimes just
25 like, you know, intelligence friend.

1 Q. When you were at the Washington station, how many
2 friends did your station have in the United States?

3 A. Hundreds of friends. Hundreds of friends.

4 You mean intelligence friend?

5 Q. I am asking you.

6 MR. CONWAY: Judge, objection. This has all been
7 asked and answered a number of times.

8 MR. THEIS: No, it has not. Maybe it's been asked
9 once or twice, but we are trying to dig down and get an
10 answer.

11 THE COURT: I will allow it.

12 BY MR. THEIS:

13 Q. So you had hundreds of friends in the United States?

14 A. Hundreds of regular friends, just like associate, any
15 people.

16 ~~But for intelligence purpose, it's very limited.~~
17 Maybe 10, 15, 20, something like this.

18 Q. And would each one of the 10 or 15 agents have a file
19 that was maintained by the IIS?

20 MR. CONWAY: Judge, this has clearly been asked and
21 answered.

22 THE COURT: That was asked and answered.

23 Sustained.

24 BY MR. THEIS:

25 Q. What about the friends, would they have a file

1 maintained by the IIS?

2 MR. CONWAY: Same objection. It was this morning
3 about 11:00 o'clock.

4 THE COURT: I will allow it.

5 You may answer.

6 BY THE WITNESS:

7 A. The file, that means in IIS station or headquarters, it
8 should be some case for this file. Otherwise, the consulate
9 and other section of embassy, they have the files.

10 But if there is no intelligence purposes, you know,
11 either maybe sometimes talk bad about Saddam, of course, and
12 the headquarters ask me, we open file for this person, or the
13 enemy, or he is a target for us, you know. There is a file.

14 But otherwise, if it is regular, just like to renew
15 his passport or to get a contract from Iraq, it is different
16 section. Intelligence should be there is a purpose to open a
17 file, and this is universal, everywhere.

18 Q. If we were to look at the file of an IIS agent that was
19 kept according to all the practices and procedures of the
20 IIS, how would that look? Would it have a file jacket
21 always?

22 A. What file?

23 Q. Any file -- not any file. But let's talk about the
24 perfect file of an IIS agent, if all the rules are followed.

25 And there were rules for maintaining the files,

1 correct?

2 A. Yes.

3 Q. The perfect file for an IIS agent would have a cover; is
4 that correct?

5 A. Cover?

6 Q. Yes.

7 A. Yeah. This is -- yeah. And there is different covers.
8 This is -- this is flexible. Some cover, there is the name
9 of the agent. Some, there is number for the agent. Some is
10 nothing. Some file, there is a name of the office,
11 intelligence IIS. Some, there is nothing, just a plain
12 paper. It depends, you know. You can use any file.

13 Q. Were there any written rules or procedures that would
14 govern whether or not the name or the number would go on the
15 front of the file?

16 A. You know, this is -- you know, for this file, we don't
17 care about the cover, you see. The cover, you know, should
18 be -- but what's inside the file, this is important. The
19 cover, you can use any cover. I'm telling you, sometimes
20 it's white without anything.

21 Q. My question was, did the IIS have any written rules
22 telling its case officers about how an agent's file should be
23 created and maintained?

24 A. There is a lot of training about this. All the training
25 and new training, and it's not talking about the file. It's

1 talking about the procedure of recruitment. You know, not
2 talking about, you know, the file. You know, we know, and
3 always we don't follow the rules.

4 Q. Were there rules? That's my question.

5 A. There is rules, but no one follows the rules.

6 Q. Were those rules written down?

7 A. Yeah, there is rules. But no one follows the rules, I
8 am telling you.

9 Q. So each case officer, in creating a file, could put a
10 name on the front or a number or nothing, whatever he wanted?

11 A. Yes.

12 Q. And in the perfect file, according to the rules, would
13 each case file have an index?

14 A. It should be, yeah. But --

15 Q. Could the case officers violate that rule, if they
16 wanted to?

17 A. This index -- you know, sometimes you find a complete
18 index. Sometimes you don't find it. Sometimes you find an
19 incomplete index. It depends about, you know -- it depends
20 about, you know, the case officer himself. If it is well
21 organized, his file is clean, organized, everything.

22 But, you know, most of the files, especially after
23 1991, you know, there is a lack of papers, files. And the
24 case officer, you know, they are not serious too much, you
25 know, to do especially. Everyone like to travel abroad to

1 get assignment. And it depends about the case officer, how
2 organized he is. Yeah.

3 Q. In the perfect file, would each sheet of paper in the
4 file have a serial number to show what was the first document
5 in the file and what was the second and what was the third?

6 A. From my experience, it's not important.

7 Q. Was there a rule that each document should have a serial
8 number?

9 A. I don't know. I don't think there is a rule. But this
10 is just a procedure.

11 Q. And the procedure was that --

12 A. Yes, sir. I told you, you know, serial number. I saw
13 hundreds of files without serial number. But in two cases
14 they put serial number. When they transfer it to computer,
15 in order to put file in a desk, they should make serial
16 number. And when they transfer the file to another section,
17 they put the serial in order no one can, you know, just steal
18 some paper.

19 But as a procedure, it should be a serial number
20 and updated.

21 Q. And this was true even before computerization, correct?

22 A. Yeah.

23 Q. And the file should show any travel records of the
24 agent; is that correct?

25 A. The travel -- you know, usually the file, yeah, shows,

1 you know -- this question, you know, there is, I think -- if
2 the agent in United States, just like, you know, Shaony, as a
3 station, we don't care where he travel, where he is going,
4 where he is -- you know. But we care about what information
5 he give us.

6 But if it is, you know, the headquarters, you know,
7 contact some agent outside, the agent told them, I am going
8 to this place. If you like to contact me, you will find me
9 at this number. I go to this or this or this. There is, you
10 know, some paper for traveling, yes.

11 Q. The file for one of these agents should reflect any
12 monies paid to the agent?

13 A. Yes.

14 Q. Would it contain receipts for the monies paid to the
15 agent?

16 A. ~~I think for one hour sometimes. The procedure, in order~~
17 to keep a proof, you know, it should, you know, keep a copy
18 of receipt. But the original copy goes to accounting office.
19 Sometimes you find receipts. Sometimes you don't find.

20 THE COURT: I realize you have a ways more to go,
21 but I think we really need to end soon. I promised Ms. Ishoo
22 I would not lean on her too hard today.

23 MR. THEIS: I can stop now.

24 THE COURT: All right. Let's resume on Friday,
25 the 22nd.

1 Is it 1:00 o'clock that she has got us for?

2 (Brief pause.)

3 THE COURT: Right. 1:00 o'clock.

4 MR. CONWAY: And, Judge, if we could just ask, I
5 think you might have some matters early in the morning. If
6 they crater for any reason, we are at least happy to start as
7 soon as possible.

8 MS. PETERS: We would really like to finish up with
9 this witness next time out.

10 THE COURT: Let me tell you what I have.

11 I have status conferences at 9:00 and 9:30.

12 At 10:30, 11:00 o'clock, and 11:30 I have
13 sentencings set.

14 I could hear evidence from 9:30 to 10:30,
15 approximately, but then we would have to take a break until
16 1:00. If you want to do that, that's fine.

17 MS. PETERS: We would be happy to do that, Judge.

18 MR. CONWAY: I think we should ask the interpreter
19 what her schedule is, too.

20 THE COURT: Right.

21 THE INTERPRETER: Did you say 9:30?

22 THE COURT: 9:30 to 10:30.

23 THE INTERPRETER: I have another case. I will have
24 to ask if they can continue that.

25 THE COURT: What time is that one? Is that on

1 Friday?

2 THE INTERPRETER: Actually, it's probation, and we
3 have 6:00 o'clock in the morning, 6:00 a.m. Sometimes she
4 doesn't show up early.

5 THE COURT: Oh.

6 THE INTERPRETER: But I think if it's a half an
7 hour, I can --

8 THE COURT: Why don't we say we will just do half
9 an hour or 45 minutes in the morning, and then we will come
10 back in the afternoon.

11 MR. THEIS: So what time do you want us to come in?

12 THE COURT: 9:30 on Friday, the 22nd. We will
13 finish up around 10:15, and then we will resume again at
14 1:00 o'clock.

15 MS. JUDGE: Your Honor, one last issue, and we
16 ~~don't need the witness for this. I just want to remind the~~
17 Court, there was an order September 6th for the government to
18 disclose the unclassified information in the response to our
19 NSA motions. And I don't know if there has been any filings.
20 As far as I know, I haven't gotten anything. I don't know if
21 there has been a classified filing, or if the Court has any
22 rulings.

23 THE COURT: Back up.

24 You received a filing earlier today, correct?

25 MS. JUDGE: Yes.

1 THE COURT: Okay.

2 What you are talking about now is the order that I
3 entered that was effective for early September.

4 MS. JUDGE: Right.

5 THE COURT: You know, I have received a submission
6 on that, and I will enter an order.

7 MS. JUDGE: Okay. Thank you.

8 THE COURT: Thanks.

9 (An adjournment was taken at 5:09 p.m.)F

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25