

1 IN THE UNITED STATES DISTRICT COURT
 2 NORTHERN DISTRICT OF ILLINOIS
 3 EASTERN DIVISION

4 UNITED STATES OF AMERICA,)

5 Plaintiff,)

6 vs.)

7 SAMI KHOSHABA LATCHIN,)

8 Defendant.)

Docket No. 04 CR 661

Chicago, Illinois
 September 15, 2006
 11:08 a.m.

9
 10 TRANSCRIPT OF PROCEEDINGS - Evidentiary Hearing
 BEFORE THE HONORABLE REBECCA R. PALLMEYER

11 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

13
 14
 15
 16 UNITED STATES DEPARTMENT OF JUSTICE
 BY: MR. CLIFFORD RONES
 1400 New York Avenue
 Washington, D.C. 20005

17
 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

19
 20
 21 Also Present:

Ms. Irene Ishoo, Interpreter

22
 23 Court Reporter:

FRANCES WARD, CSR, RPR, FCRR
 Official Court Reporter
 219 S. Dearborn Street, Suite 2118
 Chicago, Illinois 60604
 (312) 435-5561
 frances_ward@ilnd.uscourts.gov

24
 25

1 THE COURT: We are here on United States versus
2 Latchin, No. 2004 CR 661, for a further evidentiary hearing
3 in connection with the government's request for admission of
4 certain documents in evidence at the trial on this case,
5 which has now been reset to next year.

6 I think we should be ready to proceed, correct?

7 MR. CONWAY: Yes, Judge.

8 THE COURT: All right.

9 When we broke some weeks ago, we had Mr. Al-Dani on
10 the stand under cross-examination, correct?

11 MR. THEIS: Yes.

12 THE COURT: So we are ready to proceed.

13 MS. JUDGE: We have a couple of issues. If you
14 want to do those now or after is fine.

15 THE COURT: I'll tell you what. Why don't we get
16 started, and let me explain why.

17 We, once again, have just one interpreter, and she
18 is going to need significant relief. So I am sure we will
19 have time when she needs a break to make other arguments.

20 MS. JUDGE: That sounds good, Judge.

21 MR. THEIS: I think we need Mr. Al-Dani. I don't
22 know where he is.

23 MR. CONWAY: He is on his way.

24 THE COURT: I am sure we do need the witness.

25 (Brief pause.)

1 THE COURT: Good morning, Mr. Al-Dani.

2 THE WITNESS: Good morning.

3 THE COURT: The last time you were here you were
4 sworn, and I want to remind you that you remain under oath.

5 You may be seated.

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

7 CROSS-EXAMINATION - Resumed

8 BY MR. THEIS:

9 Q. Mr. Al-Dani, you have a written agreement with the
10 government concerning benefits that are to be given to you;
11 is that correct?

12 MR. CONWAY: Objection, your Honor.

13 THE COURT: Objection to the form is sustained.

14 BY MR. THEIS:

15 Q. At some point you entered into a written agreement with
16 the government concerning the benefits that you would receive
17 from the government; is that correct?

18 A. There is no written agreement, I think.

19 Q. I can't hear your answer, sir.

20 A. There is no written agreement, I think. Just
21 understanding.

22 Q. And so what you know about the benefits from the
23 government is based just on what people have told you; is
24 that correct?

25 A. I know the benefits, yes.

1 Q. You are going to have to speak more loudly, sir.

2 A. Yes. I know the benefits, yes.

3 Q. Have you ever seen a written agreement with the
4 government concerning your benefits?

5 MR. CONWAY: Objection, your Honor.

6 THE COURT: The objection to questions concerning a
7 written agreement will be sustained.

8 BY MR. THEIS:

9 Q. One of the benefits you received from the government is
10 an annuity payment of approximately \$37,000 a year; is that
11 correct?

12 A. Yes. And I think there is -- yeah. Yes.

13 Q. And that's something --

14 A. And I think it's 36, 35, not -- this is 2 1/2 percent,
15 you know, you know, annual increase.

16 THE COURT: Annual increase?

17 THE WITNESS: Yeah.

18 BY MR. THEIS:

19 Q. So you get a cost of living benefit of 2 1/2 percent a
20 year; is that correct?

21 A. Yes.

22 Q. The agreement also provides that your wife would have a
23 survivor's benefit; is that correct?

24 A. Yes.

25 Q. So at whatever point, if you were to decease, she would

1 continue to receive half of what you have been receiving; is
2 that correct?

3 A. Yes.

4 Q. And then in addition to the \$37,000-a-year annuity, you
5 also receive an extra stipend of \$10,000 a year; is that
6 correct?

7 A. Yes.

8 Q. And for how many years are you to receive that extra
9 \$10,000 a year?

10 A. Ten years.

11 Q. Does the ten years come to an end in the year 2010? Is
12 that correct?

13 A. Yes.

14 Q. In addition to that, the government reimburses you for
15 medical costs and your family; is that correct?

16 A. Yes.

17 Q. By "family," does that include adult children of yours?

18 A. No. I think no. Adult, you know, because they -- until
19 the age, I think, you know, after finish school, everybody
20 work and get the insurance from their job.

21 THE COURT: And get insurance from their job?

22 THE WITNESS: Yeah.

23 BY MR. THEIS:

24 Q. And for the year 2006, the government reimburses you for
25 your health insurance premiums; is that correct?

1 A. Yes.

2 Q. The government has agreed to reimburse you for up to
3 \$30,000 a year in premium costs; is that correct?

4 A. Yes.

5 Q. The government has further agreed that it will reimburse
6 you up to \$30,000 a year for premium costs up until the year
7 2019; is that correct?

8 A. Yes.

9 Q. In addition, the government also reimburses you for
10 educational expenses of you and your family; is that correct?

11 A. Yes.

12 Q. Up until now, how much money has the government
13 reimbursed you for educational expenses for you and your
14 family?

15 A. I don't know. I am not able to calculate, you know, how
16 much. But I know, you know, maybe the figure, it is limited
17 until the money is finished. That's it. But I don't know
18 how much they spend, how much is the rest.

19 Q. Is there an agreement as to the maximum amount that the
20 government will pay for educational expenses?

21 A. I think, you know, totally, around 80; 80,000.

22 Q. So all together, the government will pay up to \$80,000
23 in educational expenses for you and your family; is that
24 right?

25 A. Yes.

1 Q. In addition to that, the government has also agreed to
2 help your children get into colleges of their choice; is that
3 correct?

4 A. Only in the beginning, you know, some of them. But
5 other, they get the admission by -- you know, just like any
6 American.

7 Q. But the government puts in a good word for your children
8 to get into school. Is that the agreement?

9 A. Some of them. Not -- you know, help to get one or two.
10 I think only two. And the other get admission just like
11 regular.

12 I mean, they graduated from high school and they
13 get -- they have good grade, and they get admission just like
14 anyone.

15 Q. But for some of your children, they asked for the
16 government help in getting into college; is that correct?

17 A. Yes.

18 Q. And the government gave that help to get them into
19 college; is that correct?

20 A. Just give them -- not help, you know, because they
21 already -- they are -- they have -- eligible, you know, to
22 admit.

23 Q. What sort of help did the government give your children
24 to get into college?

25 MR. CONWAY: Judge, objection.

1 MR. THEIS: This is part of the disclosure. I am
2 just trying to flesh it out.

3 BY MR. THEIS:

4 Q. Did the government write letters of recommendation, for
5 example? I don't know.

6 MR. CONWAY: Again, objection to that question.

7 MR. THEIS: But that question is fair game, based
8 on the disclosure that's been made.

9 THE COURT: I think it's fair to ask him what he
10 knows about what the government did.

11 BY MR. THEIS:

12 Q. Do you know what the government did to help your
13 children get into college?

14 A. You know, I am telling you, this is very --

15 MR. CONWAY: Judge, objection to that question.

16 THE COURT: Overruled.

17 The witness may answer.

18 You may answer.

19 BY THE WITNESS:

20 A. You know, just like they are eligible -- eligible to get
21 the admission. But when I came, maybe there is little
22 trouble for papers, for other. That's it. It is simple
23 help. It is not, you know, they get -- they graduate by
24 their effort, you know.

25

1 BY MR. THEIS:

2 Q. My question is, do you know what help the government
3 gave your children to get into college?

4 A. No.

5 Q. Was it important for you for your children to get into
6 college?

7 A. I'm saying, you know, my children, they are eligible.
8 They need little help.

9 Q. Were you interested to know what help your government
10 gave your children to get into college?

11 A. No.

12 MR. CONWAY: Judge, this is all speculative at this
13 point.

14 THE COURT: The witness answered, no, he was not
15 interested.

16 ~~THE WITNESS: No. No, I'm not interested, you~~
17 know.

18 BY MR. THEIS:

19 Q. Other than the benefits that we have talked about this
20 morning, are there any other benefits that you have received
21 from the government?

22 A. No.

23 Q. Are you an employee of the government at this point?

24 A. I don't know if I can answer this question, you know.

25 Q. Well, do you go to work on a regular basis?

1 A. No. I am just, you know -- I have other job, you know.

2 Q. You have what?

3 A. Maybe I work regular, you know. Not here.

4 Q. Well, you know what it means to work for someone,
5 correct?

6 A. Yeah.

7 Q. Do you work for the United States government?

8 A. No.

9 Q. Do you have an employer other than the United States
10 government?

11 A. I don't know if I can go in detail in this or not.

12 Q. I am not asking you for detail. I am asking you, do you
13 have a job?

14 A. I have a job, just regular -- just like any American
15 work in store or maybe work in a school or, you know,
16 something. Not for the government.

17 Q. And your job is with someone other than the United
18 States government; is that correct?

19 A. Yes. You know, just like regular -- any store or any
20 private school or any other things.

21 Q. Let me move over to the practices and the procedures of
22 the IIS when you were employed by the IIS.

23 When a person was recruited as a source for the
24 IIS, someone in the IIS would create a memo to document that
25 fact; is that correct?

1 A. Yes.

2 Q. This sort of memo would have information about the
3 recruit's background; is that correct?

4 A. Yes.

5 Q. This memo would also document what the recruit was
6 expected to do, correct?

7 A. Yes.

8 Q. This memo would also reflect what sort of benefits the
9 recruit might hope to receive; is that correct?

10 A. Yes.

11 Q. This sort of memo would be created at the time that the
12 person was recruited by the IIS?

13 A. Yes.

14 Q. Would the memo also tell IIS who had recruited the
15 person?

16 A. Yes.

17 Q. And sometimes potential --

18 A. The question, you mean the officer who recruited that
19 source?

20 Q. Well, the officer who did the recruiting would reflect
21 that he was the one who did the recruiting, right?

22 A. Yeah. He mentioned his name. And there is application
23 for each source. Sometimes they fill the application and
24 they written the name of the officer who recruit the source
25 and what the technique he used to recruit him.

1 Q. When you say an "application," was there a form that the
2 recruit --

3 A. There is a form, you know. But this form, it is not
4 necessarily to be in each file, you know. Because, you know,
5 the form, sometimes it is the -- for secrecy reason, they
6 don't put it in the station. And they just wrote a memo
7 that -- you know, putting the information, personal
8 information, about any source. Most the file, you know,
9 either there is one application or sometimes there is no
10 application.

11 Q. But regardless of whether there is an application, IIS
12 would want to have certain information about the recruit from
13 the very beginning of the relationship; is that correct?

14 A. Correct.

15 Q. And that would be the sort of information that we have
16 just discussed; like, what does the recruit hope to do,
17 correct?

18 A. Yes.

19 Q. Sometimes recruits would be first approached by an
20 individual who was apart from IIS, right?

21 A. What you mean, "apart"? It is either --

22 Q. Not an employee of IIS.

23 A. Mostly, no.

24 Q. But sometimes it would happen that some person who's not
25 an IIS officer would need a recruit and pass that information

1 on to the IIS, correct?

2 A. He is -- you know, most of the state department people,
3 they don't know what is recruit, you know, and others.

4 Mostly it happened when they have a friend, and
5 they say, you know, Mr. Al-Dani, I have good friend who work
6 in the state department. I like to introduce you to him.
7 But he is not going to recruit or anything. Most recruitment
8 for IIS, totally.

9 Q. When the friend comes to the IIS officer and then the
10 IIS officer goes to this recruit, the IIS officer puts in his
11 report who is the person that introduced him to the recruit,
12 right?

13 A. It's not important. You know, it depends on the IIS
14 officer. If I go and I find out this source, there is no
15 benefit. There is no necessity to write any memo.

16 ~~I can maybe maintain relation. After that I can~~
17 write a memo. But in the beginning, you know, you consider
18 him as a friend. There is no, you know -- not necessary to
19 write a memo for recruitment until there is an intelligence
20 purpose.

21 Q. Once the IIS officer decides to sign up the recruit, he
22 would make some note in the file as to who introduced him to
23 the recruit; would he not?

24 A. Yes.

25 Q. You were the chief of station for Washington, D.C.,

1 between 1984 and 1987; is that correct?

2 A. Yes.

3 Q. During that time that you were chief of station here in
4 the United States, how many recruits did the IIS have in the
5 United States?

6 A. I don't remember the figure.

7 Q. Would it be thousands?

8 A. I don't know. We have very, very few recruitment, not
9 too much. Mostly Iraqis. You know, at that time we
10 concentrate -- when I was in Washington, there is an
11 Iraq-Iran war. And most of our job, you know, to recruit, to
12 get information about Iran. Most of our, you know, sources
13 are either Iraqis or Iranians.

14 But if you tell me thousand, no. Maybe less than
15 10. I can't tell you the exact figure. But for
16 intelligence, to be accurate, maybe just like couple of
17 sources.

18 But for friend, there is hundreds. A friend, I
19 mean not intelligence friend; just like regular friend. We
20 know all the community. If you tell me -- hundreds of people
21 I know. But if you tell me how many sources, maybe I can
22 tell you 10 or 12, not more, as a source.

23 But for exact figure, I can't remember.

24 Q. Could you tell me how many people there would be that
25 would have IIS files opened on them in the United States?

1 A. For files, I can tell you, in the station at that time,
2 maybe 500 files. But intelligence file, maybe for sources,
3 maybe 10, 15. It is real source.

4 But when you ask me about file, the file, that
5 means, you know, he is -- you know, the file for source, I
6 mean, maybe 10, 15. Even, you know, these sources, when it
7 come to me, I found out they are not useful. I make them
8 friend. It is not source.

9 But for the file, the file for cases, I mean, maybe
10 three, four hundred, five hundred, because any case -- just
11 like when they ask me, we need information about, you know --
12 about Halliburton company or BakTel (phonetic), then I have
13 to open a file for this case.

14 But for cases as an intelligence source, it is not
15 too much. For files, we have a lot of file in IIS.

16 Q. I am going to ask you -- or go back to asking you some
17 questions about Mr. Zakerya. Let me get his file here.

18 I am going to hand you what's been marked as
19 Government Exhibit Zakerya Group 1, which you saw when we
20 were here last time, right?

21 (Document tendered.)

22 BY THE WITNESS:

23 A. What was the question?

24 BY MR. THEIS:

25 Q. If you could take a look at the cover, which has been

1 designated as PDF 77.

2 A. 77?

3 Q. Yes, the cover of the file.

4 A. "The cover of the file," you mean this one (indicating)
5 or this (indicating)?

6 Q. Yes, sir, the outside cover of the file.

7 Now, on the upper left-hand corner someone has
8 written "America 79." Obviously, they wrote it in Arabic,
9 but the translation is "America 79."

10 What does that designation mean? Does that mean
11 anything to you?

12 A. That means, you know, this source is in America. This
13 is -- this source is in America.

14 And this "79," either, you know, the number of the
15 file or the year '79. I am not sure. But I think it is the
16 number of the file, the serial in headquarters, because there
17 is a serial, you know, paper for files, and maybe this serial
18 is for headquarters.

19 Q. Are you guessing, or are you telling me that's a fact?

20 A. Because it is not mentioned clear here. "America," I am
21 sure 100. I am sure it is -- belong to America, this.

22 But for "79," I just, you know, assume this for
23 number.

24 Q. 79 you think might be the 79th American file. Is that
25 what your assumption was?

1 A. Yes.

2 Q. Would that mean that there were at least 78 other files
3 about people in America?

4 A. Yes.

5 Q. There could be more, of course?

6 A. Of course, more. Maybe higher. Maybe -- yes.

7 Q. And do you know when File No. 1 received its designation
8 as File No. 1?

9 A. I don't know, because, you see, this -- the system in
10 headquarters, you know, not all belong to only the serial for
11 sources for American desk only.

12 Iran desk has source in America. They have own
13 serial number. Opposition group, hostile group, they have
14 own number. Israel desk, they have their own number in
15 America source.

16 As American desk director, I don't know their
17 sources. They put their, you know, number for each desk, you
18 know. That is --

19 Q. It's your testimony that you spent a number of years in
20 M4 at the IIS; is that correct?

21 A. Yes.

22 Q. And so you are telling us that maybe 79 is a serial
23 number, but you are not really sure; is that right?

24 A. Yes.

25 And, by the way, sir, this is not important for us,

1 you know. This is -- you know, it belongs to administration,
2 you know, people in the desk who responsible to arrange the
3 files.

4 For intelligence, this is anyone. They don't look
5 what this -- or what this cover. This is -- maybe sometimes
6 a cover is plain, nothing written on it. It's not important.
7 It depends about the case officer.

8 Q. Would 79 be this individual's secret number?

9 MR. CONWAY: Judge, I think this has been asked and
10 answered.

11 MR. THEIS: Not this one.

12 THE COURT: You may answer.

13 BY THE WITNESS:

14 A. You mean 79 --

15 BY MR. THEIS:

16 Q. ~~Would that have been a number that was assigned to him~~
17 ~~to be used in place of his name?~~

18 A. No, I don't think so. No, because the number would be
19 bigger than this.

20 I think this is just serial number in
21 administration in headquarters. This is my guess.

22 Q. Now, in this Zakerya file, take a look at PDF 47, if you
23 will.

24 A. 47?

25 Q. Yes.

1 A. Yes, sir.

2 Q. And also take a look at 48 as well.

3 A. Yes, sir.

4 Q. Now, Page 47 has got a serial number on it of 2; is that
5 correct?

6 A. Yes.

7 Q. Page 48 has a serial number of 1 on it, correct?

8 A. Yes.

9 Q. What this should signify to us is that this two-page
10 document is the very first document in the Zakerya file,
11 correct?

12 A. This is -- you know, they put it -- and the purpose, I
13 think, you know, that means this letter is two pages. Here,
14 first, maybe it is maybe the first, you know, two pages in
15 his file. Yeah.

16 Q. And, in fact, with the date of December 10th, 1983, it's
17 the oldest document in the file, correct?

18 A. I am not checking the file. Maybe there is older than
19 this, or they are the oldest one. Yeah. I'm not checking
20 the file, you know. Maybe you check it better than me. I
21 think so, it is '83 they start with this file.

22 Q. Well, take a look. I have checked it, but I think it's
23 more important that you check it.

24 A. Okay. This is -- yeah.

25 (Brief pause.)

1 BY THE WITNESS:

2 A. I think so. It is -- you know, the oldest one, it is
3 '80.

4 BY MR. THEIS:

5 Q. This letter lists Mr. Zakerya as someone who's
6 collaborating with the Iraqi government, correct?

7 A. Yes.

8 Q. It refers to him by the name of Malakha, M-a-l-a-k-h-a,
9 right?

10 A. Yes.

11 Q. But we all agree that that's really the same person as
12 Zakerya, correct?

13 A. Yes.

14 Q. There should be something in this file at an earlier
15 date stating who recruited him, correct?

16 A. Yes.

17 Q. But in fact, there is not, correct?

18 A. No, I think there is -- you know, there is here, you
19 know.

20 Q. There is something in the file with an earlier date than
21 December 10th, 1983, that recites who recruited Mr. Malakha,
22 also known as Zakerya?

23 A. This is the oldest one, you know. Yeah, this should be,
24 because this is enough. This is -- because recruitment
25 started from -- started from Athens, and this is -- the

1 Athens letter mentions that this is the source we recruited
2 and mentioned other name.

3 Q. In that letter he is mixed in with other names, right?

4 A. Yes.

5 Q. In that letter does it say who recruited him, a person?

6 A. I think -- let me see -- they mention Sami.

7 (Brief pause.)

8 BY THE WITNESS:

9 A. I don't notice, you know, there is any for Sami here.

10 But they mention, you know, we maintain the relation with
11 them, you know, as a source in United States.

12 BY MR. THEIS:

13 Q. But we can agree that Mr. Latchin's name appears nowhere
14 in that letter of December 10th, 1983; can we not?

15 A. What is the question?

16 Q. Does Mr. Latchin's name appear in this letter that you
17 have now been looking at?

18 A. This letter, I don't think so.

19 Q. Well, you have had a chance to read the letter, haven't
20 you?

21 A. Yeah.

22 Q. And do you see Mr. Latchin's name in that letter?

23 A. No.

24 Q. Take a look, please, if you would, at PDF 44 and 45.

25 A. 44?

1 Q. Yes, and 45, a two-page letter.

2 A. Yes, sir.

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

4 A. Yes, sir.

5 Q. In that letter it says that the Assyrian collaborators
6 have a connection with Comrade Sami Khoshaba. Do you see
7 that?

8 A. Yes, sir.

9 Q. Is there anything in the letter that explains when that
10 connection arose?

11 A. Yeah. They arose in Athens. They said -- that means
12 Sami Khoshaba is a member of station in Athens. That means
13 IIS.

14 Q. And does the author of the letter say in the letter how
15 he knows that to be so?

16 A. They said, you know, we maintain relation with him in
17 the United States by phone, and they still, you know, give
18 information about Assyrian.

19 Q. Is there anything in the file with a date earlier than
20 June the 2nd, 1984 that reflects a report by Mr. Latchin that
21 he has made contact with Assyrian collaborators?

22 A. I think so. There is a lot, I think, here. You know,
23 in the file?

24 Q. Anything in the file before June 2nd, 1984.

25 A. Yes. The letter from Washington station, you know, this

1 is 49.

2 Q. So you are looking at Page 49?

3 A. Yeah, 49. I mentioned this is my letter, my handwriting
4 and my signature.

5 Q. All right. Now, that letter, of course, is in September
6 of 1986, right?

7 A. Yeah.

8 Q. I am asking you, sir, is there anything --

9 A. '84, you mean?

10 Q. Anything before June 2nd, 1984.

11 A. Okay.

12 (Brief pause.)

13 THE INTERPRETER: Judge, if I may ask, please, if
14 the gentleman would speak in the mic when he is answering.

15 Thank you.

16 BY THE WITNESS:

17 A. There is a letter here, date on --

18 BY MR. THEIS:

19 Q. Can you tell me the page number, sir, please.

20 A. It is 17. There is a letter I think written by the
21 source on August 15, 1979.

22 Q. Do you know who wrote that letter?

23 A. I don't know, but I just see that as the source wrote
24 the letter.

25 Q. Do you know to whom the letter was written?

1 A. It is -- no. That's just the subject. It should be to
2 Sami, but let me check if there is anything here.

3 Q. Well, when you say it should be to Sami, what are you
4 basing that on?

5 A. Because, you know, all the file, it is his
6 responsibility. He recruit the source. He recruit the
7 source, and he received all the information in Athens about
8 the source.

9 Q. Where in the file is there a memo from Mr. Latchin
10 saying, "I just recruited Mr. Zakerya"? Anywhere?

11 A. You know, this is -- you know, the memo should be in
12 Athens station, because the Athens station put it in a formal
13 letter. He wrote -- sometime it's not necessary to attach,
14 you know, IIS officer, you know, to the, you know, station
15 letter.

16 ~~The IIS come to me and give me the information, and~~
17 I wrote formal letter and keep the letter, other letter, you
18 know, in the station. And now, Athens did the same. Chief
19 of the station in Athens wrote the couple of sources
20 recruited by -- by -- you know, by him and forward it to the
21 headquarters.

22 And he is not saying this to whom by recruit. But,
23 you know, all the Assyrians I know of in my work, all
24 Assyrian sources recruited by Sami. There is no one in
25 Athens.

1 Q. Sir, does the first letter mention Mr. Latchin's name?

2 A. The first letter, they don't mention.

3 Q. Okay. Are you telling us that it was the practice of
4 the IIS that when an officer in a station communicated with
5 the head of the station, that the communication would always
6 remain in the station?

7 A. Yes.

8 Q. It could never be sent to Baghdad?

9 A. It depends about -- sometime, you know, chief of station
10 like to send the letter. But mostly it's better to put it in
11 a formal letter.

12 Q. But sometimes, if there were an original communication,
13 it would go from the station to Baghdad, correct?

14 A. The chief of station has authority to do whatever he
15 like to do; to keep it, to send it. But mostly, 99 percent,
16 to keep. IIS, you know, not, because -- especially work in
17 Iraqi Airway, it is just like, you know, a cover for him, and
18 he is not able to write formal letter. He give piece of
19 paper contain information, but the station wrote a formal
20 letter saying that we have a source in America, 1, 2, 3.

21 Q. This letter, Page 17 and 18, do you even know that
22 Mr. Zakerya wrote this letter?

23 A. I don't know the Zakerya handwriting.

24 Q. Does his name appear in the letter anywhere,
25 Mr. Zakerya's name?

1 A. Let me check.

2 (Brief pause.)

3 BY THE WITNESS:

4 A. He is not -- there is no name, but he put a stamp that
5 is central committee.

6 BY MR. THEIS:

7 Q. Who put a stamp?

8 A. I think, you know, this is central committee for, you
9 know, for Assyrian party, you know.

10 Q. What is your basis for thinking that Mr. Zakerya put
11 that stamp on Page 18?

12 A. I'm not sure about this, you know. I don't know who put
13 the stamp. But this letter --

14 Q. Actually, you have no idea who put that stamp on there,
15 do you?

16 A. Yeah. I don't have idea who put that stamp.

17 Q. And for all you know, Pages 17 and 18 don't even belong
18 in this file, correct?

19 A. You know, 17 and 18, what?

20 Q. How do we know they belong in this file?

21 A. Because it's talking about -- yeah. This is a good
22 question.

23 That means -- led me to assume 100 percent this
24 letter is written by Zakerya, because they put it in his
25 file, you know. Otherwise, they put him in the party file.

1 But they put him in the Zakerya file. That means, I can tell
2 you 100 percent, this is Zakerya letter.

3 THE COURT: You can say 100 percent or you cannot
4 say 100 percent?

5 THE WITNESS: I mean, can -- my assuming 100. I
6 can't tell 100 percent, but I assume 100 percent, because
7 they put it in the Zakerya file.

8 THE COURT: Okay.

9 THE WITNESS: That means he wrote this letter or he
10 wrote this letter. That means he give this information.

11 BY MR. THEIS:

12 Q. But do you know who put this letter in the file?

13 A. Case officer.

14 Q. You know that he put it in the file?

15 A. I don't know who -- which case officer. But, I mean,
16 the case officer, when receive this letter, he put it in the
17 file.

18 Q. Do you know when it was put in the file?

19 A. Who?

20 Q. Do you know when it was put in the file?

21 A. I don't know when, you know. How can I know when?

22 Q. It could have been put in there in 2003, correct?

23 A. No. How you, you know, receive it in 2000 if -- you
24 know, '84 and put it in 2003? And, you know, we don't do
25 this. He will get punishment if he bring something and put

1 it here.

2 Q. So people would be punished if --

3 A. If they mess the file, yes.

4 Q. -- if they didn't keep the files properly?

5 A. Yes, of course, because this is misconduct.

6 Q. Actually, this letter is dated 1979, correct?

7 A. Yeah, '79. Yeah, '79, yes.

8 Q. But we don't know that it was written in 1979, do we?

9 A. No.

10 Q. It could have been written in 2003, couldn't it?

11 A. No, I don't think so.

12 Q. Why do you rule that out?

13 MR. CONWAY: Judge, I think it's all speculative,
14 and he is arguing with the witness at this point.

15 MR. THEIS: I am trying to probe the basis of what
16 seems to be his speculation, but which we need to find out.

17 MR. CONWAY: If he is speculating, then that's the
18 objection. He asked him a question that calls for
19 speculation, which is inappropriate.

20 THE COURT: I am going to overrule this objection
21 and allow the question and answer.

22 But right now, I think Ms. Ishoo needs a break. We
23 are going to take a recess until five minutes after 12:00.
24 Then I think we will push on until about 12:30, take a lunch
25 break then, and then come back an hour later. So 15 minutes

1 right now.

2 (A brief recess was taken at 11:51 a.m. until 12:07
3 a.m.)

4 THE COURT: All right. We are back on the record.
5 You may proceed then, Mr. Theis.

6 MR. THEIS: Once again, I await Mr. Al-Dani.
7 (Brief pause.)

8 THE COURT: You may be seated, sir. I will remind
9 you once again that you are under oath.

10 You may proceed, Mr. Theis.

11 MR. THEIS: Your Honor, could I ask the reporter to
12 read back the last question and answer so I can remember
13 where we were?

14 THE COURT: Sure
15 (Record read.)

16 BY MR. THEIS:

17 Q. Mr. Al-Dani, is there some reason you would rule out
18 this letter having been written in 2003?

19 A. No, because why they put the date here, '79, this is one
20 thing.

21 Second thing, you know, it is -- there is no
22 procedure, you know, to fake -- you know, to make fake letter
23 and put another date. I don't think there is a reason to do
24 that. Yeah.

25 Q. So you are saying that if the letter is dated 1979, it

1 must have been written in 1979; is that correct?

2 A. Yes.

3 Q. And you are also saying that the IIS would not create
4 fake documents for its files; is that right?

5 A. Yes. Because it is a source, you know, of what -- the
6 reason to make fake letter and put it here.

7 Q. Of course, someone outside the IIS could create a fake
8 document to be put into an IIS file; is that correct?

9 MR. CONWAY: Judge, objection.

10 BY THE WITNESS:

11 A. No.

12 THE COURT: The objection is sustained. That's
13 speculative.

14 BY MR. THEIS:

15 Q. Let's go back to Pages 44 and 45 that we were looking at
16 earlier.

17 Do you have that in front of you, sir?

18 A. 44 and 45, yes.

19 Q. On Page 45 someone has written at the bottom of the
20 page, "complete their forms and pictures," correct?

21 A. Yes.

22 Q. Is there any picture of Mr. Zakerya in this file?

23 A. I have to check, but I can tell you that is not
24 important for any source to put his picture in the file,
25 because sometimes we are not able to get the picture. But

1 regularly, if we can, they prefer to bring the pictures.

2 This is the director of the desk, ask about the picture of
3 Zakerya.

4 Q. So the boss is asking the people in Washington to get a
5 picture of Mr. Zakerya, correct?

6 A. Which one?

7 Q. In Page 44 and 45.

8 A. 44 and 45, it is -- yeah, it is from headquarters to
9 Washington, yes.

10 Q. Asking Washington to get a photo of Mr. Zakerya?

11 A. This letter say, you know, to maintain relation and tell
12 them to cut his relation with Sami and to check them
13 and vetting them.

14 THE COURT REPORTER: And what?

15 THE WITNESS: To check the source as a reliability.

16 BY MR. THEIS:

17 Q. And one of the other things that the boss is asking for
18 is a photograph of Mr. Zakerya, correct?

19 A. No. In this letter they don't ask Washington. But this
20 is aside, you know, that American desk can, written or not,
21 mention here -- they say it was preferable to add. To add
22 that, I mean, you have to get -- you know, to put a plan for
23 each one and complete their application with picture.

24 And this is the procedure in the work. This is --
25 he put this note -- and this is note forwarded to the

1 Washington, because already the letter is signed, and I don't
2 see there is anything to get the picture.

3 Q. Does anyone ever put a photograph in this file of
4 Mr. Zakerya?

5 A. I -- I never see, but I have to check to tell you
6 exactly if there is a picture for him or not.

7 (Brief pause.)

8 BY THE WITNESS:

9 A. The reason, if there is no picture, because when we
10 receive this letter, when I was in Washington, I tell
11 headquarters the resource, they are not important. And we
12 like just to make them friend, regular friend, who they are,
13 because they are not useful. And this is -- there is not too
14 much information or pictures.

15 MR. THEIS: Your Honor, Mr. Conway tells me he is
16 ~~willing to stipulate that there is no photograph in this~~
17 file, so maybe we can move on with that.

18 THE COURT: All right.

19 BY MR. THEIS:

20 Q. Mr. Al-Dani --

21 A. I think there is no picture.

22 Q. Okay.

23 The letter, still on Page 44, the portion that goes
24 to Washington tells Washington that Washington should tell
25 these people that they should deal only with Washington and

1 not with Mr. Khoshaba; is that right?

2 A. Yes, cut the relation with Sami Khoshaba. Yeah, the
3 relation should be with Washington station.

4 Q. And is there anything in the file to reflect that
5 Washington then contacted Mr. Zakerya and said, "Deal only
6 with us. Don't deal with Mr. Latchin"?

7 A. I have to check, you know. There is a contact I know.
8 Myself, I contact him two or three times. I remember only
9 maybe he and other one. I contact him and he complain to me,
10 why you don't give me the money? I contact, I'm sure. I
11 remember him very well. I contact him at least two times,
12 and I told him, we don't like to give you money because if we
13 give the money, give us intelligence information.

14 Q. In this conversation that you had with Mr. Zakerya, do
15 you remember telling him that he should deal only with you
16 and not --

17 A. I told him, yes.

18 Q. Well, let me finish.

19 -- only with you and not with Mr. Latchin?

20 A. Okay.

21 Q. Do you remember telling him that?

22 A. Yes.

23 Q. You have a very clear memory of telling him that?

24 A. What?

25 Q. You have a very clear memory --

1 A. Yeah.

2 Q. -- of telling Mr. Zakerya --

3 A. I'm sure. I'm not forget, yes. Maybe if you told me
4 about other source, I told him yes. Maybe, yes.

5 But he -- he insist to get the money. I think I
6 assigned another, either from station or from embassy, to
7 contact him.

8 Q. Did you put anything in the file then to reflect your
9 conversation with Mr. Zakerya in which you say you told him
10 he should cut off contact with Mr. Latchin?

11 A. I don't know. But I just -- let me see.

12 (Brief pause.)

13 MR. THEIS: Your Honor, we are trying to figure out
14 a way to make this go faster. I have studied this. As far
15 as I can tell, it's not there.

16 Now, I am hesitating, and I have given the witness
17 every opportunity to look for himself on these matters,
18 because I appreciate that I am dealing with documents that
19 are written in a foreign language, and they allegedly come
20 from a world that is really pretty foreign to me on a number
21 of different levels. So I feel in kind of a quandary about
22 how to handle this.

23 I need to make my point, but I am afraid we are
24 going to be here for weeks if Mr. Al-Dani has to look
25 through -- and the problem is that these files are in a

1 terrible mess. They don't start off and proceed in a
2 chronological manner. The pages are just -- it's like
3 someone put them in a washing machine.

4 MR. CONWAY: Your Honor, as to this, we are happy
5 to stipulate if we particularly know a particular point, but
6 I can't do that on everything.

7 His cross-examination is as to the files. The
8 files speak for themselves. Whether it's there or not there,
9 he can make his arguments later. If I think it is there, I
10 will make it. Whether this witness can particularly find it,
11 he can ask the witness, should this kind of document be in
12 the file? And if it isn't, well, he has got his answer and
13 he can argue the absence or it is in there, rather than have
14 the witness thumb through for half an hour. That's not fair
15 to the witness. It is irrelevant.

16 MR. THEIS: ~~You know, I think this exchange that we~~
17 had before the break illustrates the problem that I have. I
18 asked the witness a very simple question about, is there
19 anything prior in the file? And after a lot of thought, he
20 pulls out some letter from --

21 THE WITNESS: Yeah, this --

22 MR. THEIS: Excuse me, sir. I am speaking to the
23 Judge.

24 THE WITNESS: I'm sorry.

25 MR. THEIS: -- pulls out a letter from 1979, which,

1 by my likes, even if it properly belongs in the file, is in
2 no way responsive to the question I asked him.

3 So I don't want to put myself in the position of
4 not asking him to look in giving us his answers and then,
5 after the fact, anybody can come along and speculate as to
6 what these documents mean.

7 If I had received something from the government a
8 month from now saying, well, really the answer to that
9 question was found in that letter from 1979, I would have
10 felt horrible about that, because clearly it wasn't. But I
11 can't anticipate those things. That's why, for the most
12 part, I have got to ask the witness what he sees in the file,
13 even though I think I know what's in the file.

14 THE COURT: I don't know whether what I have got is
15 a formal objection, but I think it may very well make sense
16 for us to at least proceed along this line a little further
17 to determine whether or not this style of questioning is
18 necessary.

19 I guess the problem, Mr. Conway, with the
20 assumption that if something -- if Mr. Theis simply asks,
21 should something be here? then concluding later on that it's
22 not, is it might very well be that certain documents could be
23 interpreted different ways, as evidence of something or not.

24 I think, Mr. Al-Dani, you were about to tell us
25 something. You said you found something?

1 THE WITNESS: Yeah. Yeah, here in 22.

2 BY MR. THEIS:

3 Q. Page 22?

4 A. Page 22. This is my letter, my handwriting. In
5 Paragraph 2 I said I contact him many times. That means I
6 contact -- because my handwriting. I wrote it. And then I
7 assign somebody to contact him. Because this is my letter to
8 headquarters saying, this is the source -- you know, our
9 source in Chicago.

10 And before, previously, I contact him more than --
11 more than a year -- more than six months. And now the
12 relation, you know, is with him, you know, maintain by
13 Comrade Adnan Al-Robaie. And that means I contact him. And
14 I am sure. I am telling you I contact him more than one
15 time. And he contact me and complain about many, many times.

16 ~~Sir, I can tell you this, this is just like I know~~
17 ~~myself. This is my file and my handwriting. I don't like to~~
18 ~~create --~~

19 THE WITNESS: What I am saying here, Judge, the
20 truth. I don't, you know, hate Sami and like to make trouble
21 to him. He knows we had good relation.

22 What I am saying here, exactly the truth. I can
23 tell you, this file 100 percent original, authentic; belong
24 to IIS.

25 You can go now and -- most of the director sign

1 this letter -- and ask them. If one tell that this is not
2 the letter, put me in the jail.

3 I am saying here the truth. I don't like to create
4 trouble to anyone.

5 BY MR. THEIS:

6 Q. In this letter, Page 22, that you referred us to, is
7 there anything in there about telling Mr. Zakerya to cut off
8 his contacts with Mr. Latchin?

9 A. I don't -- yeah. I don't think so, we told him to cut
10 his relation. But this is necessary -- you know, we already
11 told him, you know, and they should -- even headquarters told
12 Sami to cut relation with them.

13 Q. In the letter, 22 that you just -- Page 22 that you
14 just --

15 A. This is my handwriting, and this is my signature, chief
16 of station.

17 Q. And it's dated in 1986; is that correct?

18 A. Yes, sir.

19 Q. Take a look at Page 41, if you would, please.

20 A. Yes. Yes, sir.

21 Q. That's a two-page letter that continues on Page 40; is
22 that correct?

23 A. It is 41 and 42.

24 THE COURT: 41 and 42?

25 THE WITNESS: Yes.

1 BY MR. THEIS:

2 Q. Well, are you sure about that?

3 A. What?

4 Q. Page 41 ends with a Paragraph No. 2, and then when you
5 go to Page 40, it picks up.

6 A. No, it is -- I think this is -- let me see. It is 41,
7 and the complete of letter should be somewhere. Yeah.

8 Q. It continues on Page 40, right?

9 A. 40. Exactly, 40 and 41.

10 Q. And the letter is from headquarters to your station in
11 Washington, right?

12 A. Yes, sir.

13 Q. And it says, "Here is some information that was given by
14 Sami to Athens"; is that right?

15 A. Yes.

16 Q. Now, on Page 41 the letter bears a date of
17 September 25th, 1984, correct?

18 A. September 25th.

19 Q. 1984.

20 A. 1984? This is in 41.

21 Q. No. Page 41.

22 A. On Page 40 the date, it is -- this is, you know, just
23 like initial for the case officer and head of the section.

24 18 of September and the 24 of September.

25 But the letter is forwarded to the station on --

1 that means it is signed by the American desk director on the
2 25th. The letter dated September 25th, 1984, but this is the
3 initial for case officers. Yahya, and here Yahya again.

4 Q. So those signatures on Page 40 that have dates of
5 September 18th --

6 A. There is no date for signature, in fact. But the number
7 of the letter and the date of the letter is September 25th.

8 THE COURT REPORTER: Remind me the spelling of
9 Yahya.

10 THE WITNESS: Yahya, Y-a-h-i-y-a, Y-a-h-a-y-a.

11 That's initial, you know, for him.

12 BY MR. THEIS:

13 Q. Yahya is someone in Baghdad; is that right?

14 A. I know him very well. He is -- at that time he is the
15 director of American desk in headquarters.

16 Q. The letter refers to information that was received from
17 Athens, correct?

18 A. Yes, sir.

19 Q. Is there anything in the file from Athens to Baghdad
20 that contains this information?

21 A. From Athens?

22 You know, here they mention -- they talking about
23 the Assyrian Student Federation, and that means this
24 letter --

25 THE COURT: I am sorry. They are talking about

1 Assyrian Student what?

2 THE WITNESS: Federation. Our union. Your union,
3 you know.

4 And that means the headquarters received
5 information from Athens, and then they forward it to
6 Washington telling them what kind of information.

7 And I think you have to go to check all file to see
8 which information, because there is a lot about, you know,
9 student federation.

10 BY MR. THEIS:

11 Q. Well, is there anything in the file --

12 A. Yes, I understand.

13 Q. -- before September 25th, 1984, from Athens to Baghdad
14 that contains the sort of information that is then repeated
15 on Page 41?

16 A. Okay. Just a second.

17 (Brief pause.)

18 BY THE WITNESS:

19 A. I think there is no date for this letter.

20 BY MR. THEIS:

21 Q. Page number, sir?

22 A. 72 and 73.

23 This is a letter from Zakerya, I think. There is
24 no name on it, you know.

25 Q. I am sorry. I couldn't hear that last part.

1 A. This letter talking about Assyrian party. Yeah, this is
2 talking about, you know, Assyrian party, but there is no
3 date, I think, for this letter.

4 This letter before -- this letter it is -- you,
5 know, the headquarters -- I mean, the Athens station send it
6 to -- send it to headquarters on January 25th, 1985. That
7 means, you know, this maybe.

8 Q. This letter, on Pages 72 and 73, is it signed by
9 Zakerya?

10 A. There is no signature, I think, for him. No signature.

11 THE COURT: I think it's time for a lunch break.
12 We will resume at about -- how about 1:20? Get back here
13 about 20 minutes after 1:00.

14 A reminder, sir, that you are not to discuss your
15 testimony with anyone.

16 THE WITNESS: Yes, Judge.

17 THE COURT: Thank you.

18 THE WITNESS: Thank you.

19 (A luncheon recess was taken at 12:32 p.m.)F
20
21
22
23
24
25