

search Moussaoui's belongings under FISA. The Minneapolis field office agent testified to the Joint Inquiry that he had had no training in FISA, but that he believed, based on advice from FBI Headquarters, that "we needed to identify a – and the term that was thrown around was 'recognized foreign power' and so that was our operational theory." As the FBI's Deputy General Counsel has testified, however, this was incorrect. The FBI may obtain a search warrant under FISA for an agent of any international terrorist group, including the Chechen rebels. Because of this misunderstanding, the Minneapolis field office expended valuable time and effort trying to establish a connection between the Chechen rebels and al-Qa'ida, which it believed was a "recognized" foreign power].

The FBI Headquarters supervisory agent briefed the FBI's Deputy General Counsel, who testified that he agreed with the Headquarters agent that there was insufficient information to show that Moussaoui was an agent of a foreign power. The FBI's focus shifted to arranging for Moussaoui's deportation to France on September 17, 2001, at which point French officials would search his belongings and provide the results to the FBI. Although the FBI was no longer considering a search warrant under FISA, no one revisited the idea of attempting to obtain a criminal search warrant.

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Thus, during the summer of 2001 -- a time when the Intelligence Community was on the highest state of alert, disparate parts of the FBI had information about Zacarias Moussaoui -- a suspected suicide hijacker, a Phoenix field office agent's suspicions about radical fundamentalists engaging in flight training, and the entry into the United States of Nawaf al-Hazmi and Khalid al-Mihdhar, who would become two of the September 11 hijackers. The FBI field office agents in Minneapolis who were investigating Moussaoui knew nothing about the Phoenix communication or al-Hazmi and al-Mihdhar. The Phoenix field office agent had never heard about Moussaoui or the two future hijackers. The FBI agents in New York who were informed on August 23, 2001 that al-Hazmi and al-Mihdhar had entered the United States knew nothing about the other events of that summer. And, finally, the Chief of the RFU at FBI Headquarters, which had handled both the Moussaoui investigation and the Phoenix communication, acknowledged in testimony to the Joint Inquiry on September 24, 2001, that no one at FBI Headquarters connected those events.