

1 **[The R.M.C. 803 session was called to order at 0900, 16 April 2024.]**

2 MJ [Col McCALL]: Commission is called to order.

3 Good morning, Mr. Trivett. Could you please identify who's
4 here on behalf of the United States and also at the RHR?

5 MTC [MR. TRIVETT]: Yes, sir. Good morning.

6 Representing the United States today in the courtroom in
7 Guantanamo is myself, Mr. Clay Trivett; Lieutenant Commander
8 Robert Baxter; Mr. Christopher Dykstra. Paralegals present,
9 Mr. Rudolph Gibbs and Ms. Karissa Grippando.

10 DoD Team Analyst Megan Gentry is present and FBI Supervisory
11 Intelligence Analyst Christina Volker. Supervisory Special Agent
12 Justin Zuccolotto, and Ms. Katherine Eisenreich from the Office of
13 General Counsel are also present in the courtroom.

14 Representing the United States in the Remote Hearing Room
15 today is Colonel Joshua Bearden.

16 And, Your Honor, these proceedings are being broadcast to
17 CCTV sites in the continental United States pursuant to the
18 commission's orders.

19 MJ [Col McCALL]: All right. Thank you, Mr. Trivett.

20 Good morning, Mr. Sowards.

21 LDC [MR. SOWARDS]: Good morning, Your Honor.

22 Appearing on behalf of Mr. Mohammad, who is not present
23 today, are Gary Sowards, Lieutenant Colonel Kathleen Potter,

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1 Lieutenant William Xu, and Ms. Denise LeBoeuf. And we're also joined
2 in the courtroom by Major Elspeth Theis and Captain Michael Leahy.

3 And we have no one in the Remote Hearing Room.

4 MJ [Col McCALL]: All right. Thank you.

5 LDC [MR. SOWARDS]: Thank you, sir.

6 MJ [Col McCALL]: Good morning, Mr. Engle.

7 LDC [MR. ENGLE]: Good morning, Your Honor.

8 For Mr. Bin'Attash: Matthew Engle, William Montross, Tasnim
9 Motala, Captain Marian Messing in the courtroom.

10 And up in the RHR we have Anisha Gupta, Lieutenant Austin
11 Ridgeway, and Prax Kennedy.

12 MJ [Col McCALL]: All right. Thank you.

13 Good morning, Mr. Connell.

14 LDC [MR. CONNELL]: Good morning, sir.

15 Representing Mr. al Baluchi are myself, James Connell; Alka
16 Pradhan; Rita Radostitz; Lieutenant Jennifer Joseph. And in the
17 Remote Hearing Room, Defne Ozgediz.

18 MJ [Col McCALL]: All right. Thank you.

19 Good morning, Mr. Ruiz.

20 LDC [MR. RUIZ]: Good morning, Judge.

21 I'm here on behalf of Mr. al Hawsawi with Captain Patrick
22 Tipton, Captain Kerry Mawn, Mr. Sean Gleason.

23 In the RHR we have Ms. Suzanne Lachelier.

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1 MJ [Col McCALL]: All right. Mr. Sowards.

2 LDC [MR. SOWARDS]: And I beg your pardon, Your Honor. If you
3 were looking around in vain for Captain Leahy, he's joining us from
4 the ELC by monitor, monitoring events, but will be coming and going
5 due to some necessary business that has to be conducted.

6 MJ [Col McCALL]: Understood.

7 LDC [MR. SOWARDS]: So thank you very much.

8 MJ [Col McCALL]: All right. And I note that none of the
9 accused are present this morning.

10 Trial Counsel, do you have a witness to account for these
11 absences?

12 Go ahead, Mr. Dykstra.

13 DMTC [MR. DYKSTRA]: Before you have a seat, please raise your
14 right hand.

15 **LIEUTENANT COMMANDER, U.S. Navy, was called as a witness for the**
16 **prosecution, was sworn, and testified as follows:**

17 DMTC [MR. DYKSTRA]: Please have a seat.

18 **DIRECT EXAMINATION**

19 **Questions by the Deputy Managing Trial Counsel [MR. DYKSTRA]:**

20 Q. Now, you've previously testified in these military
21 commissions, correct?

22 A. That is correct.

23 Q. And you go by the pseudonym "Bandit," correct?

1 A. That is correct.

2 Q. All right. Thank you.

3 Now, did you have the opportunity to advise the accused of
4 their right to be present at these proceedings?

5 A. I did this morning, yes.

6 Q. And at approximately what time did you do so?

7 A. It was about 0640 to 0705.

8 Q. And did you use a particular form when you did this?

9 A. I did, yes.

10 DMTC [MR. DYKSTRA]: Your Honor, if I may approach the
11 witness, I'm going to hand him what has been previously marked by the
12 court reporters as Appellate Exhibit 943 (KSM), 943A (WBA), 943B
13 (AAA), and 943C (MAH).

14 MJ [Col McCALL]: All right. Go ahead.

15 DMTC [MR. DYKSTRA]: Thank you, Your Honor.

16 Q. Now, is this the form that you used to advise the accused
17 of their rights?

18 I should rephrase. Are these the forms that you used?

19 A. They are, yes.

20 Q. And you previously testified you did so between what time?

21 A. 0640 to 0705.

22 Q. And in what language did you do so?

23 A. English, but we provided them the Arabic translation if

1 they wanted.

2 Q. And what was their response when you advised them of their
3 right to be present?

4 A. Everybody waived their right to be present today.

5 Q. And instead of coming to these proceedings, did they
6 decide to go to any meetings or anything like that?

7 A. Yes. Mr. Mohammad and Mr. Hawsawi both decided they
8 wanted to go to legal meetings all day at one of the off-site
9 locations. And Mr. Bin'Attash and Mr. Ali decided they just wanted
10 to go to legal in the afternoon at the off-site locations.

11 Q. Thank you.

12 DMTC [MR. DYKSTRA]: I have no further questions, Your Honor.

13 MJ [Col McCALL]: All right. Thank you, Mr. Dykstra.

14 Do any defense counsel have questions for this witness?

15 Apparently not.

16 All right. You can leave the witness stand. Thank you.

17 **[The witness was excused and withdrew from the courtroom.]**

18 MJ [Col McCALL]: All right. The commission finds that
19 Mr. Mohammad, Mr. Bin'Attash, Mr. Ali, and Mr. al Hawsawi have
20 knowingly and voluntarily waived their right to be present at today's
21 session.

22 So just some administrative matters. So yesterday during
23 the morning session we heard unclassified oral arguments on several

1 interrelated issues dealing with the Military Commission Rule of
2 Evidence 505 procedures governing notices of intent to disclose
3 classified information that would be used during the defense
4 cross-examination of Supervisory Intelligence Analyst Waltz.

5 Then we had a recess, and when we came back in we were in a
6 closed session after lunch where we dealt with classified oral
7 argument on the issues related to the prosecution's notice of revised
8 classification guidance in AE 658M as it pertains to the expected
9 cross-examination of Ms. Waltz, and also discussed some of those 505
10 notices. The accused were not present.

11 After the closed session with all of the parties, then the
12 commission conducted an ex parte hearing with the prosecution in
13 order to ask for a clarification regarding the prosecution's
14 submission in AE 885M, which was a request to provide summaries and
15 substitutions to the defense in lieu of the underlying classified
16 information. Neither the accused nor the defense teams were present
17 at this hearing.

18 That's all I have for this morning. Any administrative
19 matters for the -- that any of the teams have before we go ahead and
20 call the witness?

21 Go ahead, Mr. Connell.

22 LDC [MR. CONNELL]: Yes, sir. A few things, mostly follow-up
23 from yesterday.

1 The first one is that I want to note for the record that if
2 you look back toward the first row where the media sits, you'll see
3 that there are no media present today. That is because of a new
4 policy adopted by -- I don't know who -- that, unlike a regular
5 courthouse, the media cannot move at breaks between the two hearings
6 which are going on.

7 So the first day of Hambali in the new space, Courtroom
8 Number 3, is occurring today. And the previous understanding and
9 arrangement was that, you know, without disruption to the commission
10 at a break, that it would be possible to move from one courtroom to
11 the other courtroom. And then yesterday it was announced that that
12 would not be permitted and that they had to choose one courtroom to
13 be in all day.

14 You know, like so many things, this is just a minor thing,
15 but it's another chipping away at, like -- I don't mean to be
16 grandiose, but at democratic values, right?

17 I mean, in the courthouses where I normally practice,
18 journalists or even members of the public who we call court watchers
19 who just like to go and see what's going on can wander from courtroom
20 to courtroom and, you know, find something interesting to look at.

21 And in this situation, it's already very difficult for the
22 media to get down here. It's expensive, and so we have very limited
23 media who attend.

1 And I know that I'm not asking for any specific relief, but
2 I do want to say -- I did want to put on the record that -- what has
3 happened today in case there's an opportunity to seek relief in the
4 future.

5 MJ [Col McCALL]: All right. I appreciate that. And I
6 bring -- I had not heard that already, so I appreciate you bringing
7 that to my attention. I share your frustration. I don't understand
8 why that's a problem.

9 And so I think before we call Supervisory Intelligence
10 Analyst Waltz, we'll take a recess, and I would like to have an
11 understanding of why that's problematic.

12 I mean, if it really can't be done because of personnel, I
13 understand that. But I know where the two courtrooms are, and
14 typically counsel are coming and going, so I'm not sure what the
15 issue is. So I would like to find out before we proceed.

16 LDC [MR. CONNELL]: The other thing is that I do -- I can
17 represent, I do know that they plussed up on staff with media escorts
18 so that they could have enough people to cover this issue.

19 So I appreciate that. That's -- I thank you for that.

20 A couple of other things, following up on -- on yesterday
21 and some requests. The first is, you know, so we have a clean
22 record, I really need to ask for a ruling on the issue that I raised
23 yesterday about what we were allowed to ask in -- of the witness

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1 under the restrictions which are laid out in 936B and AE 658M.

2 And I can summarize my understanding of it, which is that
3 the military commission, if not ruled, at least indicated that we
4 were limited by the AE 936B restrictions. We had to follow what was
5 laid out in the guidance which came from the government.

6 But one thing that emerged is that when the 936B
7 restrictions conflict with the AE 658M description of classification,
8 that I'm allowed to follow 936B because that specific document has
9 been reviewed by an OCA. That was what came out of the -- what I
10 understood to come out of it.

11 I further understood that a written ruling will be
12 forthcoming as to how 574Q will be handled in the record. And I will
13 note for the record that 574Q was returned to us and is in our
14 physical custody right now, not in the physical custody of the
15 military commission.

16 MJ [Col McCALL]: Correct on all fronts.

17 LDC [MR. CONNELL]: Okay.

18 MJ [Col McCALL]: So, yes, your understanding was correct on
19 the interplay between 936 and 658M, that my understanding is the
20 government's position was that you would be allowed to ask those
21 questions that had been vetted by an OCA.

22 And, yes, the commission did return 574Q back to the Ali
23 team. But an order will be coming out today, just to make sure that

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1 it's clear on -- in the transcript for any appellate authorities that
2 will later be looking for this. The idea will be that it will be
3 placed in another location where it can be accessed both by this
4 iteration of the commission, any future judges, and any future
5 appellate authorities, so will be in the record in that manner.

6 LDC [MR. CONNELL]: Thank you, sir.

7 The second is I wanted to follow up on that 885M question
8 that you mentioned. Obviously, I don't have any idea what 885M
9 relates to.

10

11 [REDACTED] And I do know that at the 802, the government
12 represented that we might want to ask the witness about the
13 documents. So I wanted to ask the status.

14 MJ [Col McCALL]: That should be coming out this morning, is
15 my hope.

16 LDC [MR. CONNELL]: Okay.

17 MJ [Col McCALL]: We're in the middle of drafting it.

18 LDC [MR. CONNELL]: And is the idea that, if approved, the
19 government would deliver the document to us forthwith?

20 MJ [Col McCALL]: Okay. I think so. And obviously, the
21 commission will allow -- if parties have already asked their
22 questions -- again, I think the parties at this point know that I'm
23 fairly liberal with that, allowing a little leeway to then ask those

1 questions for some discovery that you just got.

2 And it is fairly short, I'll say that, so we're not looking
3 at something that's too voluminous to be able to review and add into
4 your questions.

5 LDC [MR. CONNELL]: Okay. And then I need to ask the military
6 commission for a ruling on the 914 motion, because those seven or so
7 documents that I identified yesterday do form a portion of my opening
8 questioning. And so I don't want the whole situation to be overtaken
9 by events.

10 MJ [Col McCALL]: No, I understand that. And I'm not prepared
11 to rule on the 914 at this point. If it ends up spurring additional
12 questions, then Ms. Waltz will have to testify further at a later
13 time.

14 LDC [MR. CONNELL]: Understood, sir.

15 MJ [Col McCALL]: All right. Anything else?

16 Apparently not.

17 All right. So let's do this. I hate to take a recess 18
18 minutes into starting, but, again, I would like to find out why the
19 media is having some restrictions. And once I get that, we'll come
20 back on the record. So we're just going to do an open-ended recess,
21 so please don't go far.

22 Again, I'll just -- I'll take this as a chance to just
23 remind everyone, obviously in this compound there are a lot of

1 difficulties in moving around, and so that sometimes causes delays in
2 people trying to go to the restrooms or maybe back to their office
3 spaces and then coming back in the courtroom.

4 Let's just all, for the five weeks we're down here, just be
5 aware of that and try to plan so that people aren't delayed and then
6 causing us to delay when we take a 15-minute recess and then we end
7 up starting, you know, after 20 minutes. So please just be aware of
8 that.

9 Commission's in recess.

10 **[The R.M.C. 803 session recessed at 0917, 16 April 2024.]**

11 **[The R.M.C. 803 session was called to order at 0935, 16 April 2024.]**

12 MJ [Col McCALL]: Commission's called to order.

13 The parties are again present. The accused are absent.

14 Mr. Dykstra, were you able to get any understanding of what
15 the procedures are in place for media movement while we're trying to
16 do the two commissions at the same time?

17 DMTC [MR. DYKSTRA]: Your Honor, I think I start coming up
18 here for all the fun tasks.

19 MJ [Col McCALL]: Right.

20 DMTC [MR. DYKSTRA]: Yes. I mean, to be clear, they are
21 allowed to switch. The timing in which those switches occur is
22 regulated. They can switch at the lunch break. They can switch at
23 the end of the day. They can also switch if one of the proceedings

1 goes into closed hearings.

2 That is mainly an accountability function on the secure
3 compound. It's also driven in part by how many escorts there are.

4 I do put on the record that the same feed that is available
5 in the gallery in both courtrooms -- and they can switch
6 between -- is also available at the Media Operations Center that the
7 Office of Military Commissions spent a lot of money on.

8 So to say that these proceedings aren't available or
9 otherwise, they have plenty of options, in our opinion. And they are
10 allowed to switch. They just have to -- it's just not at 10:15 or
11 10:30, while still facilitating bathroom breaks and so forth, so...

12 MJ [Col McCALL]: Understood. And I do understand some of the
13 problems we have being in a secure facility such as -- like we're in,
14 and so the need to be escorted, and the fact that we haven't done two
15 commissions at the same time before.

16 All right. I appreciate that update. It's something I'm
17 going to continue to give some thought to and I'll probably touch
18 base with Judge Braun, the judge in the Nurjaman case, just to see.

19 My thought would be I don't know that -- I mean, if there's
20 multiple escorts, I would think one escort could stay with the group
21 that's at one court. And then if there's a second escort present,
22 they could take the person to the other courtroom. And, again, I'm
23 just thinking out loud. And -- but I understand some of the

1 constraints.

2 So is this worked through by what organization? Is this
3 through PA that's handling this?

4 DMTC [MR. DYKSTRA]: So -- and it's both WHS/OSS, as well as
5 the PAO's -- OMC's PAO office.

6 MJ [Col McCALL]: Okay.

7 DMTC [MR. DYKSTRA]: I will say that seems like a very obvious
8 solution, but I will say that also promotes accountability issues
9 between keeping track of who is in Courtroom 2 versus who is in
10 Courtroom 3.

11 Because, as we know, with -- somebody may think that they
12 have somebody, or it's a game of ----

13 MJ [Col McCALL]: Oh, I understand.

14 DMTC [MR. DYKSTRA]: ---- over here, over there kind of thing.
15 So that's what this mechanism is.

16 MJ [Col McCALL]: I understand. And this is why I appreciate
17 this issue coming up as far as, like, being brought to my attention.
18 I think this is something I'll give some thought to, and at least
19 we'll have some input going forward to figure out if this needs to be
20 adjusted a bit, but all right.

21 DMTC [MR. DYKSTRA]: For purposes of the record, I was
22 pointing both which ways away from me.

23 MJ [Col McCALL]: I appreciate you protecting the record.

1 Thank you, Mr. Dykstra.

2 DMTC [MR. DYKSTRA]: Thank you.

3 MJ [Col McCALL]: All right. Anything else before we call the
4 witness in?

5 Apparently not. If we could bring in the witness.

6 **[The witness, SIA Kimberly Waltz, resumed the witness stand.]**

7 MJ [Col McCALL]: Supervisory Intelligence Analyst Waltz,
8 welcome back. Please have a seat. I just remind you you're still
9 under oath.

10 WIT: Yes, sir.

11 MJ [Col McCALL]: All right. Mr. Montross.

12 **CROSS-EXAMINATION**

13 **Questions by the Defense Counsel [MR. MONTROSS]:**


14 Q. Good morning, Supervisory Intelligence Analyst Waltz.

15 A. Good morning.

16 Q. How are you?

17 A. Fine. Thank you.

18 Q. Okay. Good.

19 So I'm going to start with what I hope is some easy
20 foundation. Mr. Bin'Attash is not 

21 

22

23 A. Can I seek classification guidance, please?

1 Q. Sure.

2 MJ [Col McCALL]: That's fine. I don't know if you need to
3 approach, Mr. Trivett, or what -- Ms. Waltz, if you could have a seat
4 first. And if -- like, do the two of you need to confer?

5 All right. And so go ahead, Ms. Waltz. You can step off
6 the witness stand and confer with Mr. Trivett.

7 **[Counsel conferred with the witness.]**

8 MJ [Col McCALL]: Go ahead, Mr. Montross.

9 DC [MR. MONTROSS]: Can I just say that we're going to start
10 with simple foundational questions, how about that?

11 MJ [Col McCALL]: Like me mentioning the rain during the 802.

12 DC [MR. MONTROSS]: Point one, okay.

13 Q. Okay. So at no time, okay, [REDACTED] is the
14 name Walid Bin'Attash ever mentioned [REDACTED]
15 correct?

16 A. That's correct.

17 Q. Okay. Either by his real name -- right? -- Walid
18 Bin'Attash? No Walid Bin'Attash ever?

19 A. That's correct.

20 Q. Okay. Nor by any of his nicknames, so, like, Khallad is
21 never mentioned?

22 A. Correct.

23 Q. Okay. Or Silver?

1 A. Correct.

2 Q. Or Tawfiq?

3 A. Correct.

4 Q. Okay. Are there any other aliases for Mr. Bin'Attash that
5 you're aware of?

6 A. There is another alias that I'm aware of.

7 Q. Okay. And what alias is that?

8 A. Saleh Saeed Mohammed bin Yousaf.

9 Q. Okay. Is that alias ever mentioned [REDACTED]

10 [REDACTED]

11 A. No, it's not.

12 Q. Okay. [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 A. I'm -- I'm sorry. I -- to be quite honest, I'm not sure.

19 Q. Would there be any documentation or notes that would
20 reflect how many [REDACTED] reviewed?

21 A. There would be -- if there was something that I reviewed,
22 it would be based upon a translation. So a translation would have
23 been done.

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1 Q. Okay. How many translations were done?

2 A. I'm sorry, I -- I don't know.

3 Q. Okay. Would there be any notes or memorandum or -- or
4 documents that would reflect how many translations were done [REDACTED]

5 [REDACTED]
6 A. The translations would be the documentation of the
7 translation.

8 Q. Okay. [REDACTED]
9 [REDACTED]

10 A. Yes, sir.

11 Q. Okay. Are there more [REDACTED] translations?

12 A. Yes.

13 Q. Okay. How many more?

14 A. I don't really know off the top of my head, and I don't
15 want to provide an incorrect answer.

16 Q. And I appreciate that.

17 A. So I -- unfortunately, I just have to say I'm not sure.

18 Q. Okay. But there would be documents that you could access
19 or a memorandum that you could access that would enable you to
20 subsequently answer that question; is that fair to say?

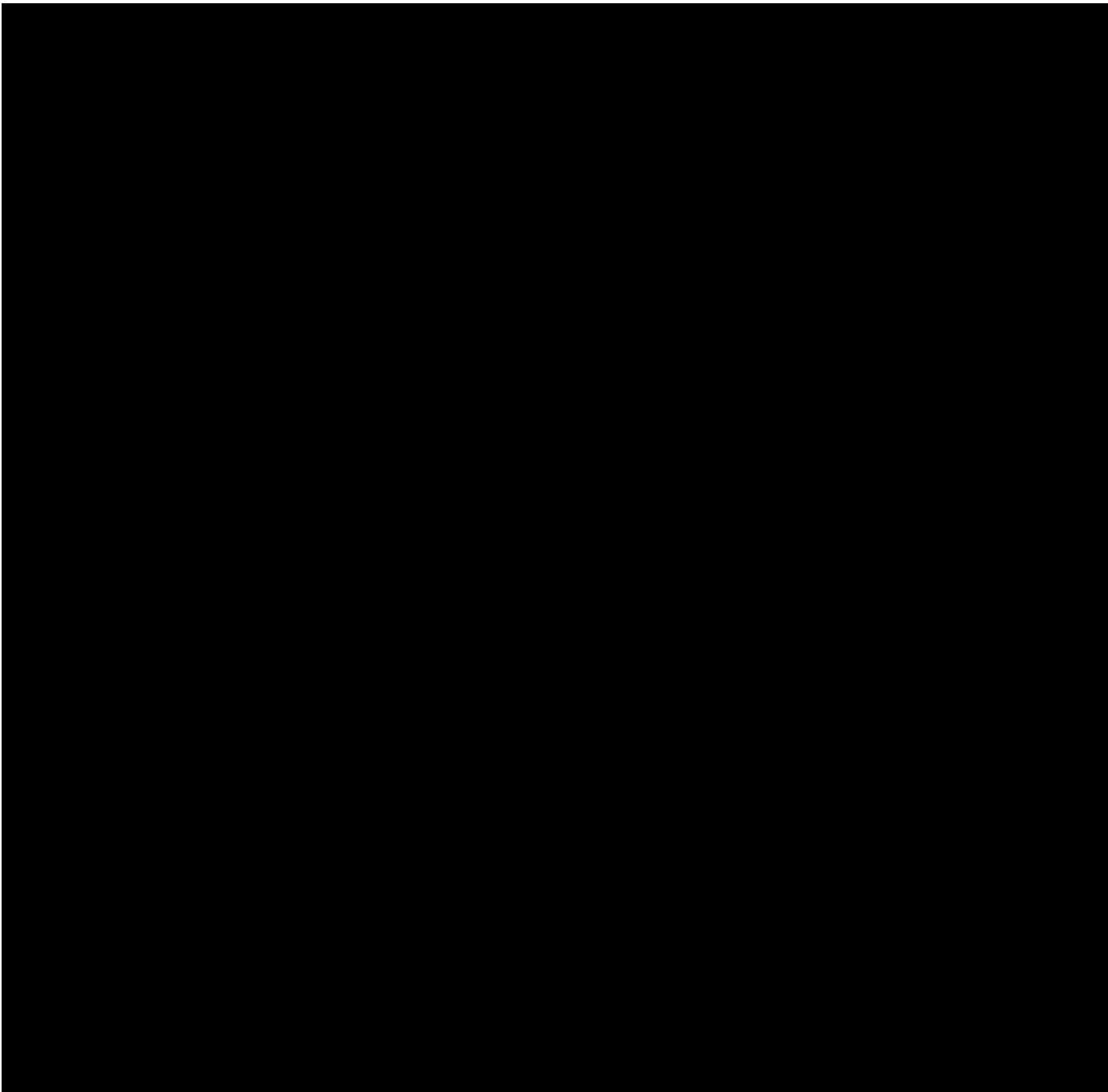
21 A. The translations that are available would be what -- that
22 would be -- I can't identify another specific memoranda that would
23 exist, so -- which is why I'm simply saying if a translation exists,

1 that that would be the documentation of the translation.

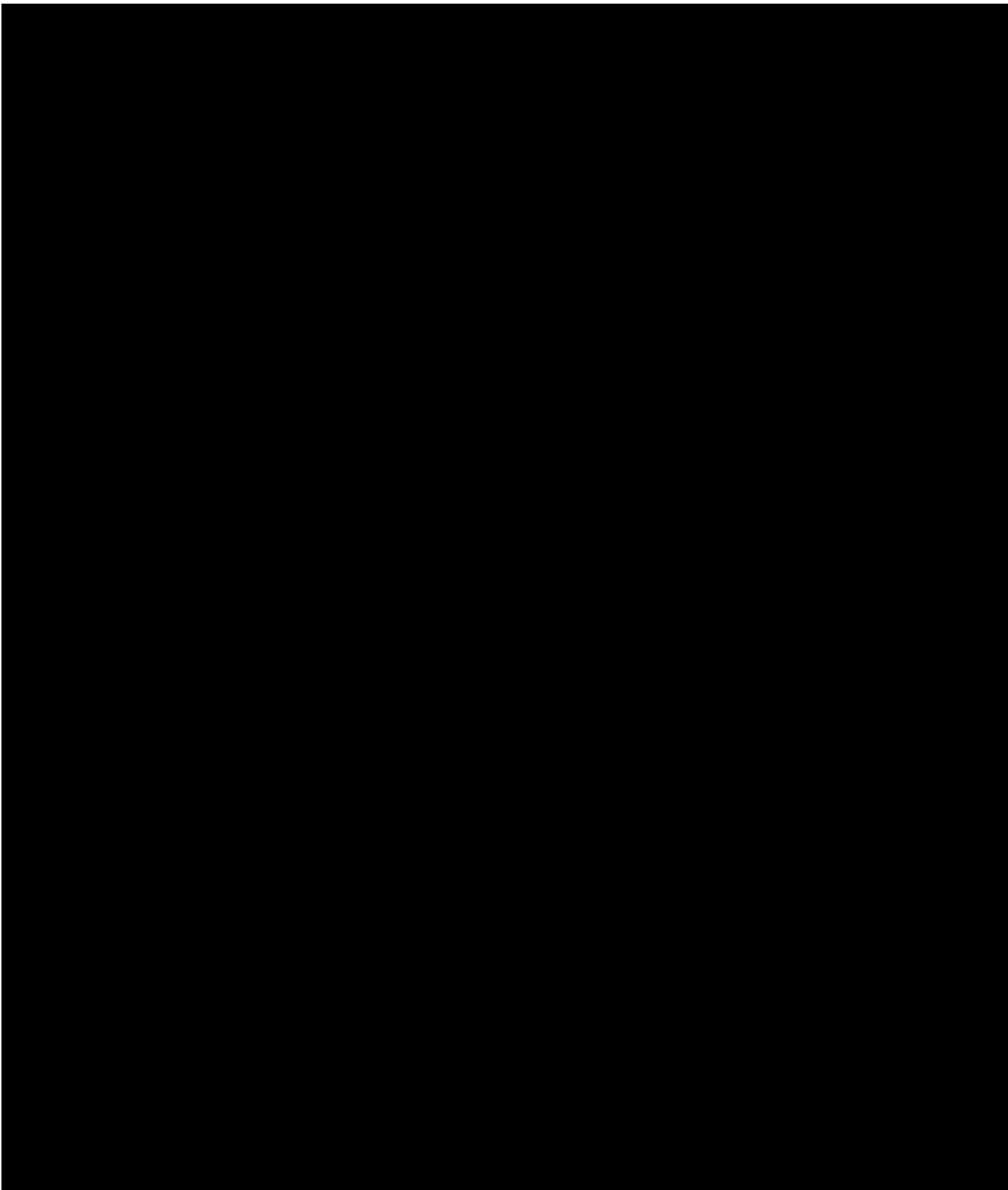
2 Q. Okay. And how do you go about finding out how many
3 translations exist? Just tell me how you could do that.

4 A. 

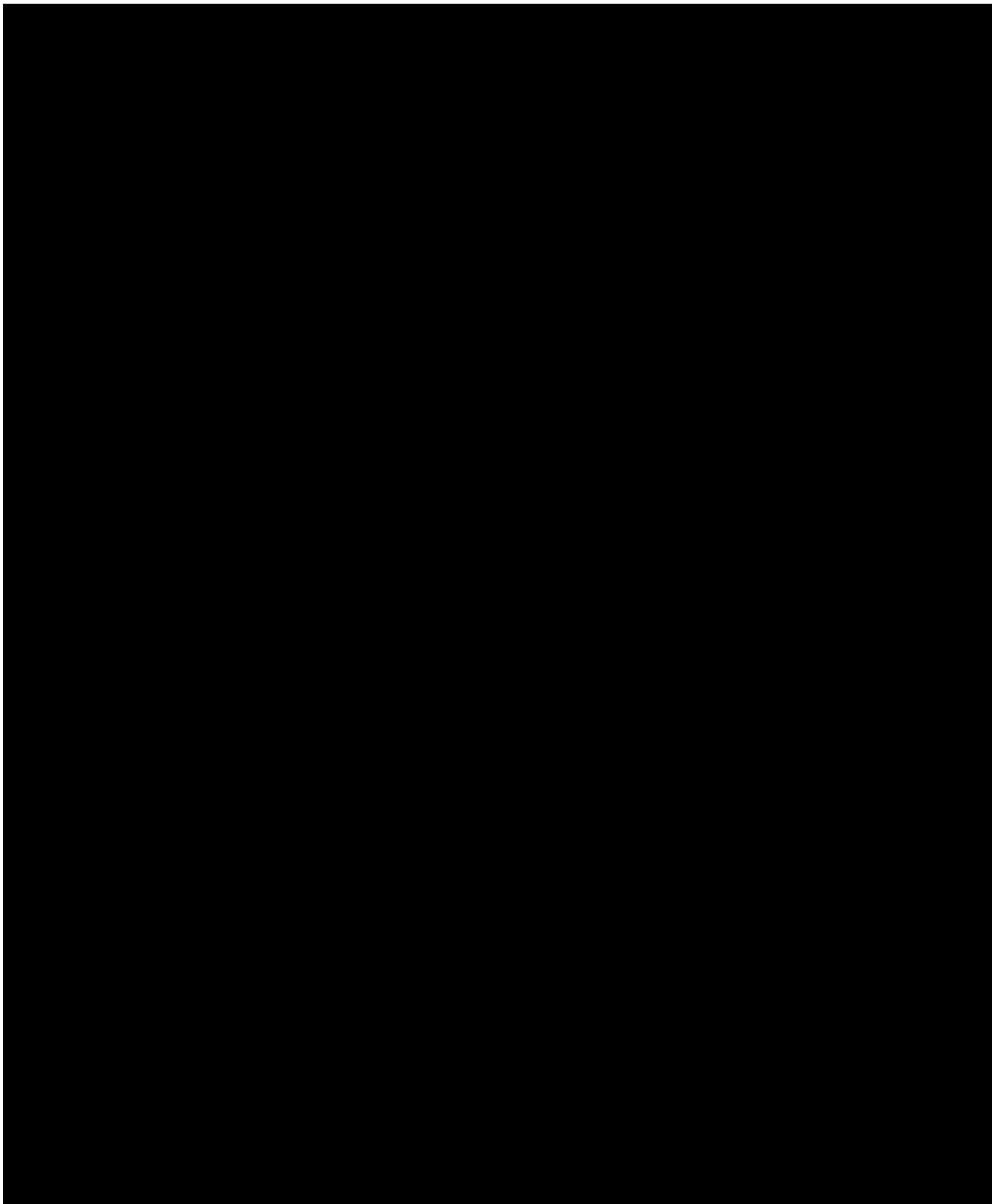
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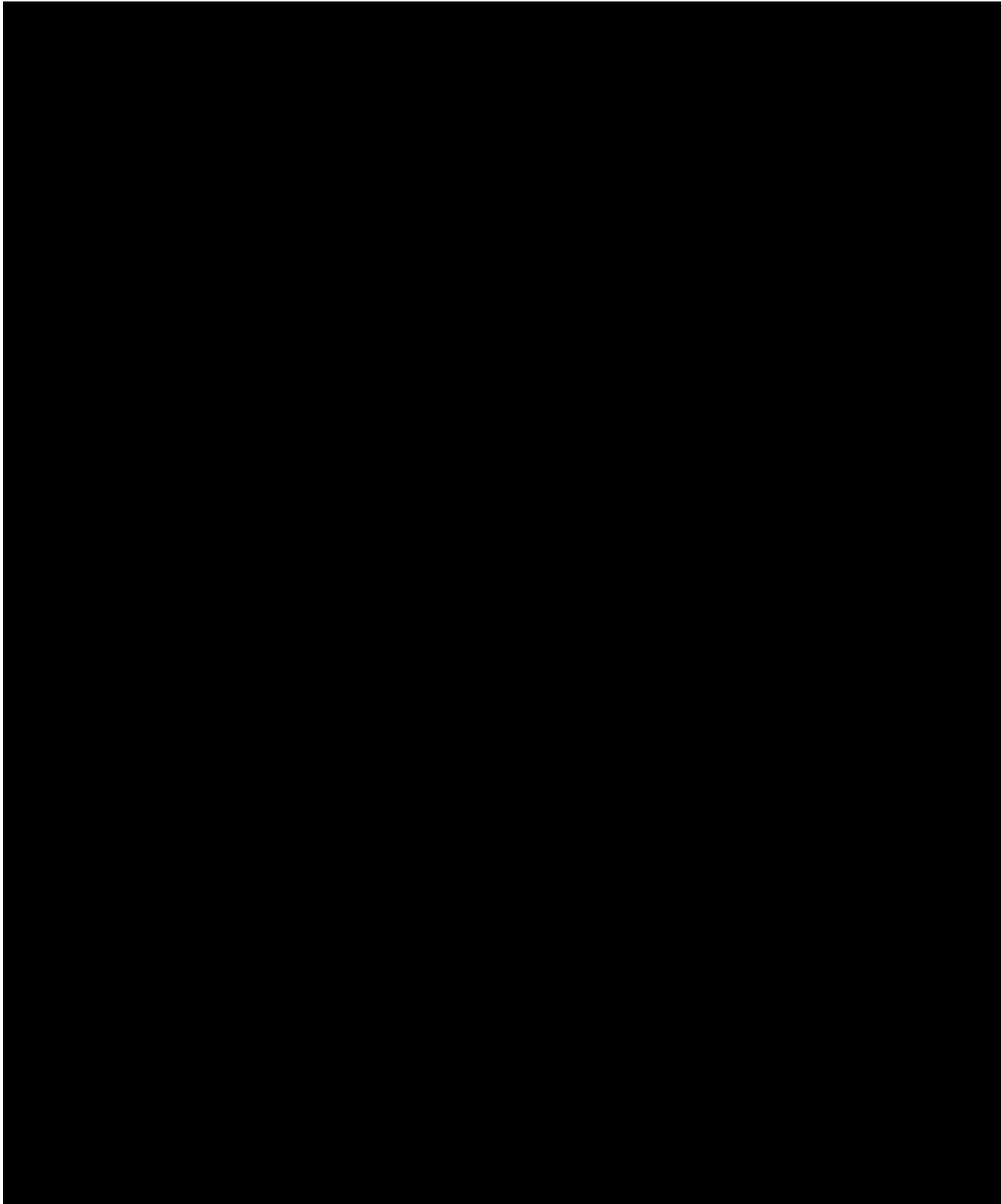


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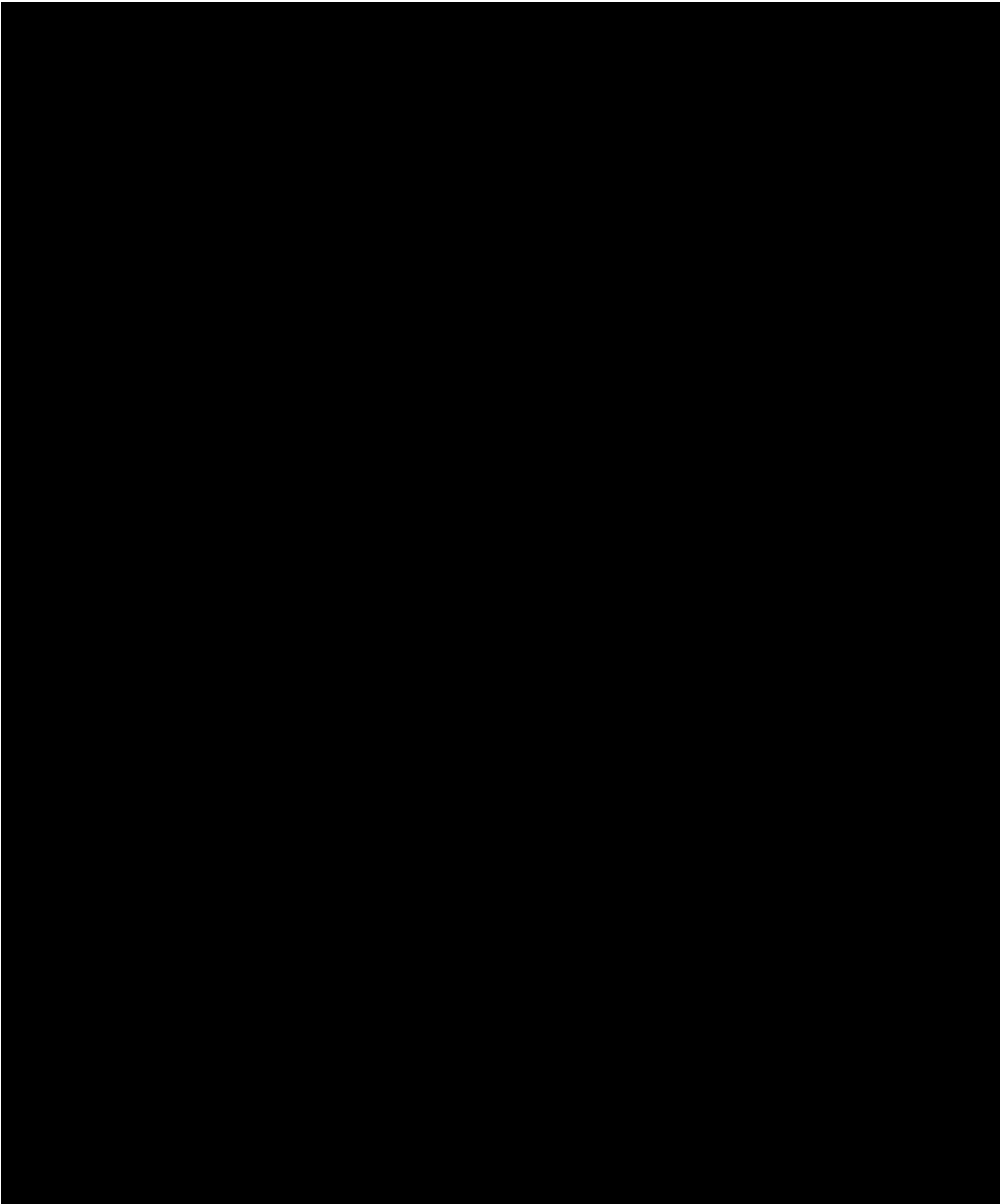


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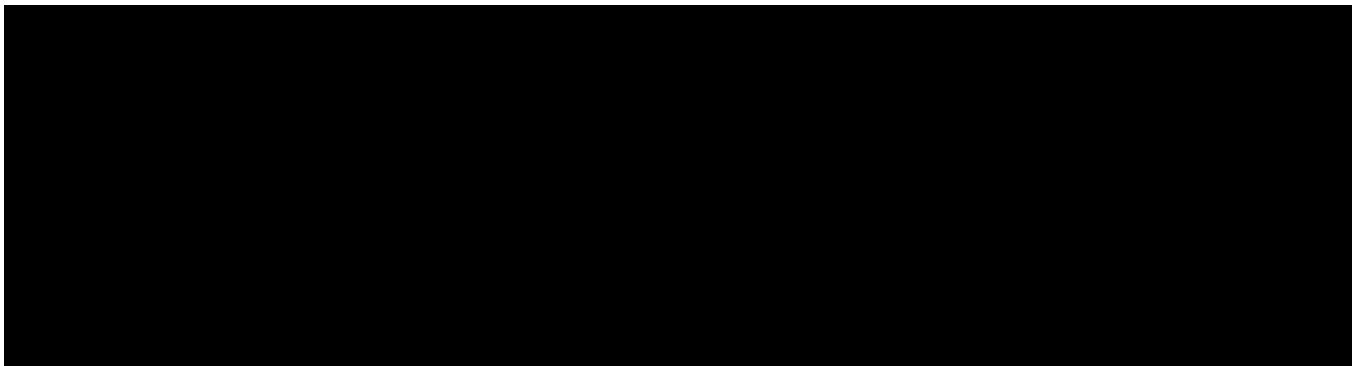
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A. Umm ----

DC [MR. MONTROSS]: Is that okay?

MTC [MR. TRIVETT]: May I consult with Mr. Montross briefly?

MJ [Col McCALL]: You may.

[Counsel conferred.]

MJ [Col McCALL]: Yeah, take your time.

MTC [MR. TRIVETT]: Your Honor, having reviewed the questions that Mr. Montross was about to ask, they are general enough in nature that I don't believe that they're getting into analysis or content such that it can be asked in open court as far as a yes-or-no question.

Any other detail or why her analysis was that way would need to be in closed.

MJ [Col McCALL]: All right. Understood.

Q. Okay. So I'm going to ask that you answer each question just yes or no, if that's possible. Okay? And if you can't, we'll deal with it in closed session.

A. Understood.

1 Q. Okay. Great. Thank you.

2

3

4

5

6

7 Q. ---- okay. The reason -- one of the reasons this is best
8 evidence is because there's actual planning about how to get a
9 hijacker, for example, from point A to point B.

10 A. Yes, sir.

11 Q. Okay. It's the best evidence because there's actual
12 planning about how to get money to the hijackers?

13 A. Yes.

14 Q. Okay. It's the best evidence because there's actual
15 planning about how we obtain visas for the hijackers?

16 A. Yes.

17 Q. Okay. It's the best evidence because there's actual
18 planning about how we overcome obstacles and difficulties in moving
19 the hijackers or the money or the visas?

20 A. Generally, yes.

21 Q. Okay. And it's the best evidence because there's actual
22 planning about how to publicize -- right? -- the attacks of 9/11?
23 Contacting media, disseminating videos, whatever.

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1 A. Some, yes.

2 Q. Okay. And it's also the best evidence because in -- we're
3 going to get to most of this in closed session, but because you were
4 able to corroborate much of the content [REDACTED]?

5 A. Some of the content, yes.

6 Q. Okay. It's also the best evidence because it captures
7 events that occurred from April of 2001 -- right? -- at least
8 April 3, 2001, through 9/11 -- right? -- to October 25th, 2001,
9 right?

10 A. Yes.

11 Q. Okay. [REDACTED]

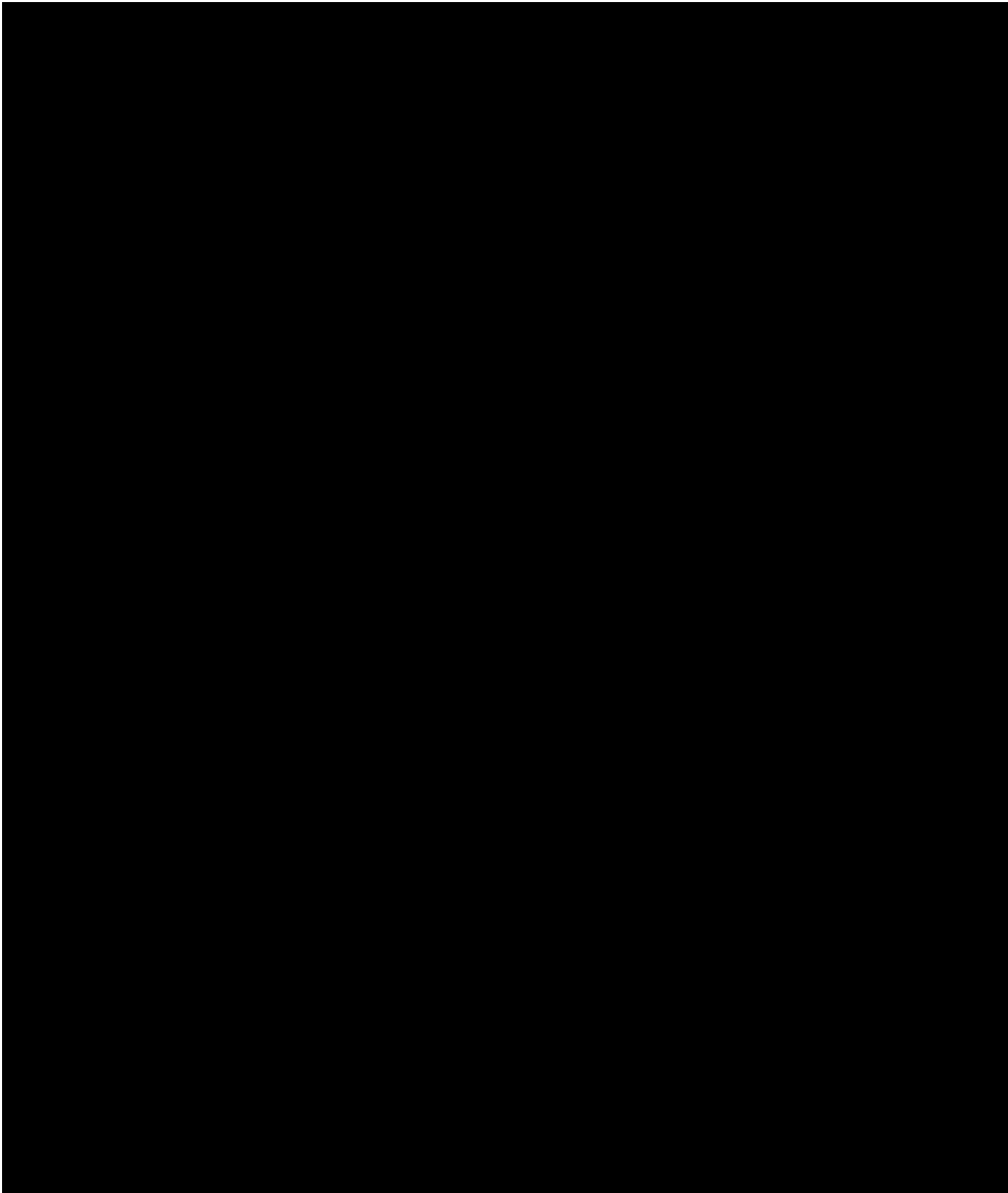
12 [REDACTED] This covers six
13 months of activity?

14 A. Yes.

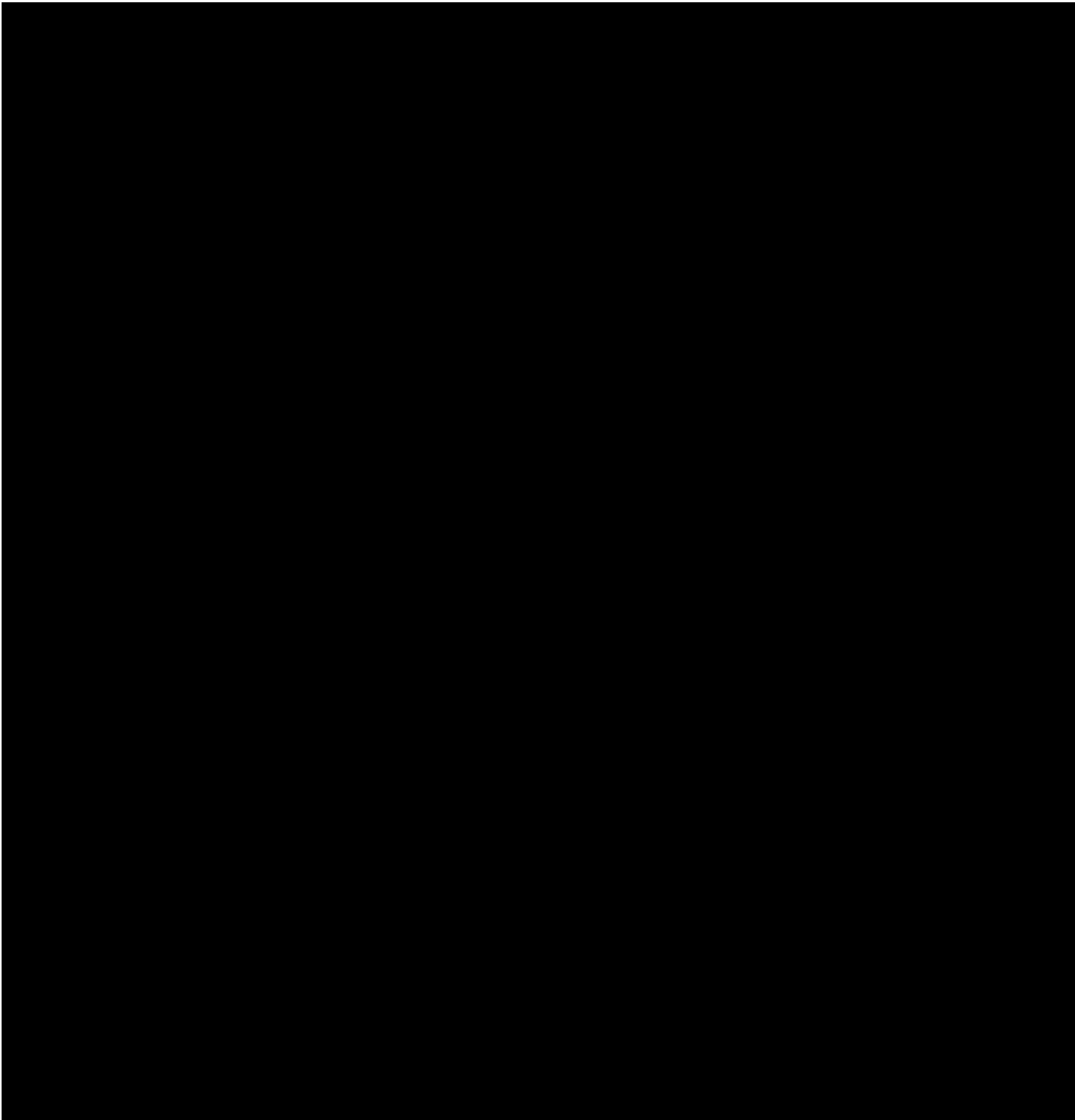
15 Q. Okay. Excellent.

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21 A. I'm ----
22 Q. I'm going to help you ----
23 A. I'm pausing only because I'm -- again, I'm -- as you

1 probably are as well, I'm trying to think about the classification
2 guidance that I've received.

3 Q. Sure. Okay. So ----

4 DC [MR. MONTROSS]: I'm sorry. Can I have one moment, Your
5 Honor?

6 MJ [Col McCALL]: No, that's fine. Take your time.

7 **[Counsel conferred.]**

8 A. I am, yes.

9 Q. Now, on February 27th, 2024, you prepared something called
10 a Statement of Supervisory Intelligence Analyst Kimberly Dawn Waltz,
11 FBI, regarding [REDACTED]
12 documentary evidence gathered during the FBI investigation of the
13 attacks of September 11th, 2001.

14 Do you remember preparing that statement?

15 A. I do.

16 Q. Okay. So, ma'am, if I show you the statement from
17 the -- [REDACTED] that you
18 discussed in your statement, right?

19 A. It is.

20 Q. Because it's bolded, right?

21 A. It is.

22 Q. Okay. So if I show you your statement -- and it is
23 portion marked -- would that assist you in your ability to answer my

1 question in open session?

2 A. Yes.

3 Q. Okay.

4 DC [MR. MONTROSS]: Your Honor, again, if I could have access
5 to the document camera. This is going to be a document that's marked
6 SECRET -- okay? -- so I'm going to ask just to show it to the
7 commission, to the witness -- okay? -- and to the attorneys in the
8 courtroom, not to the gallery. It's MEA-WALTZ-00000072B, as in boy.

9 And if I may have access to the document camera?

10 MJ [Col McCALL]: Go ahead. And, again, this one will not be
11 displayed to the public.

12 Go ahead, Mr. Connell.

13 LDC [MR. CONNELL]: Sir, I just wanted to say that this
14 document is not in the record yet, but we will be filing the 505
15 notice that you approved to put it in the record today. The reason
16 why it's not in the record is that it was just recently produced in
17 its current form, the Bravo form.

18 MJ [Col McCALL]: Okay. And do you have that AE number on
19 that 505 notice?

20 LDC [MR. CONNELL]: Yes. Sorry. It is 942A, sir.

21 MJ [Col McCALL]: Okay.

22 DC [MR. MONTROSS]: May I, Judge?

23 MJ [Col McCALL]: Go ahead.

1 Q. Okay. Ms. Waltz -- okay? -- [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 A. Yes, sir.

6 Q. Okay. If you can look at the participants -- okay? -- and
7 would you agree that that's marked UNCLASSIFIED?

8 A. Yes.

9 Q. Okay. And the participants [REDACTED] were Khalid Shaikh
10 Mohammad, correct?

11 A. Yes, sir.

12 Q. Okay. And an unknown male number 2.

13 A. Correct.

14 Q. Okay.

15 DC [MR. MONTROSS]: Okay. Your Honor, I'm removing this from
16 the document camera.

17 Q. All right. And, again, [REDACTED]

18 [REDACTED]

19 A. Yes, it is.

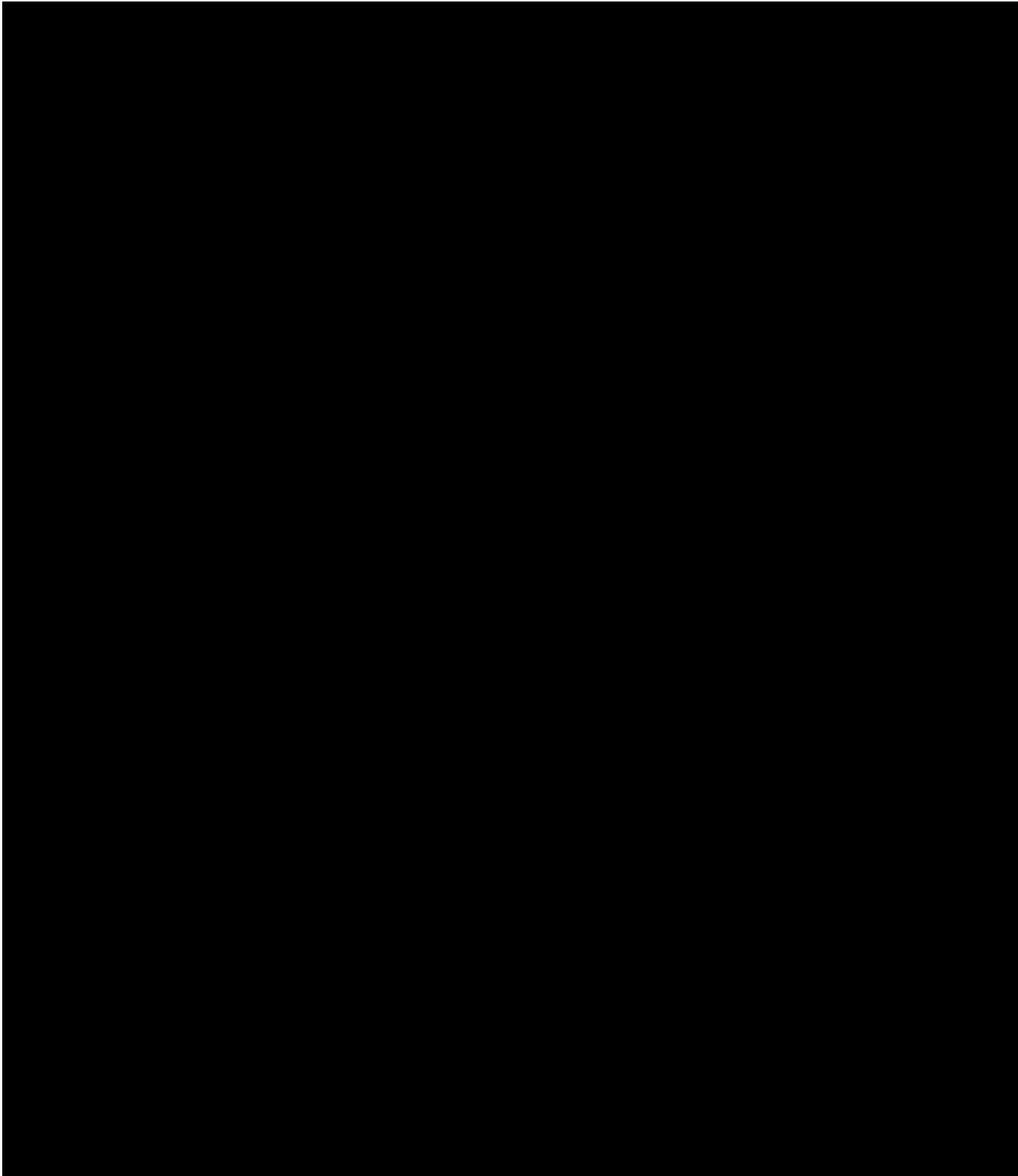
20 Q. Okay. So knowing that [REDACTED]

21 [REDACTED] was between Khalid Shaikh Mohammad
22 and unknown male number 2, think back now [REDACTED].

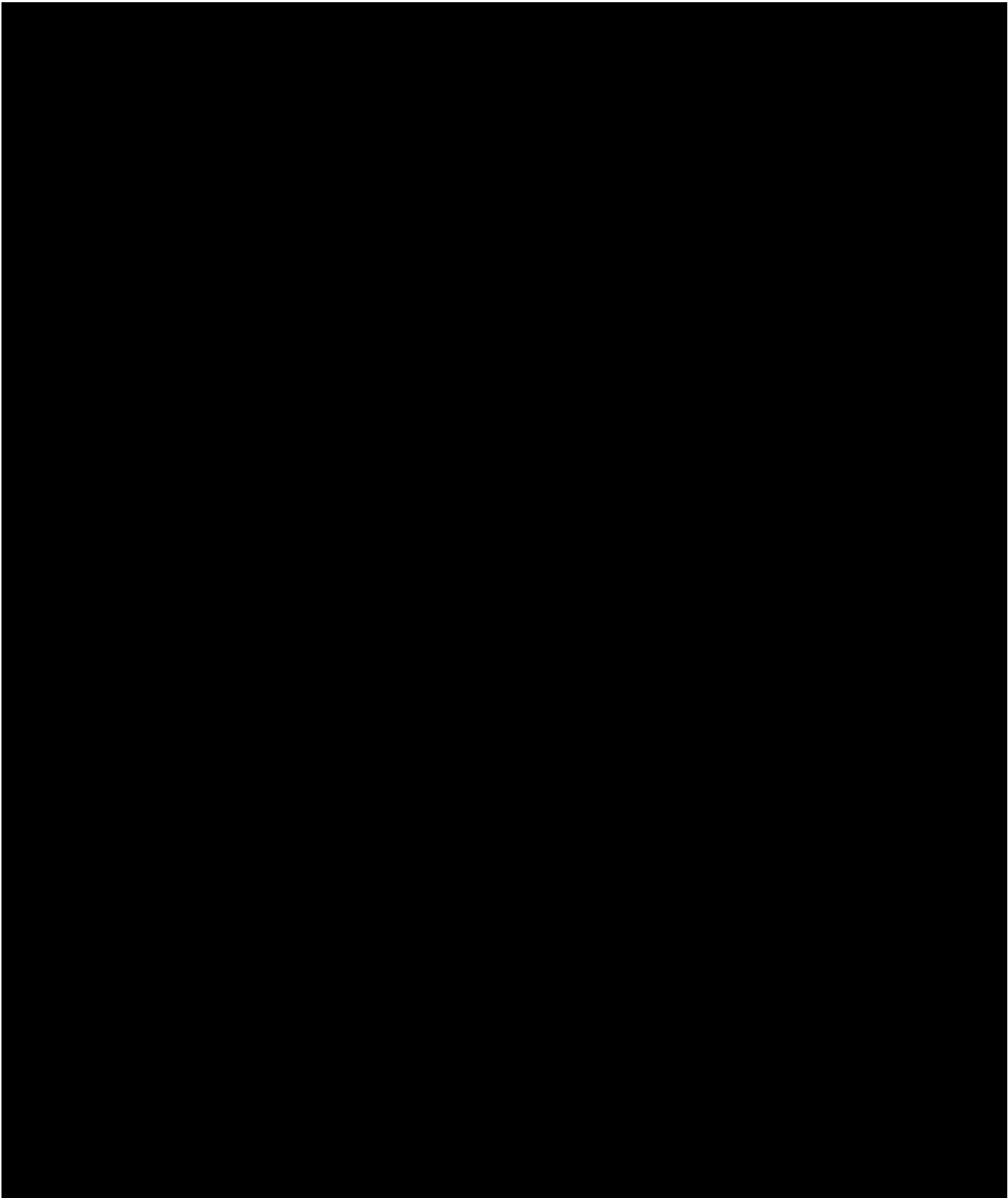
23 [REDACTED].

1 A. Yes, sir.

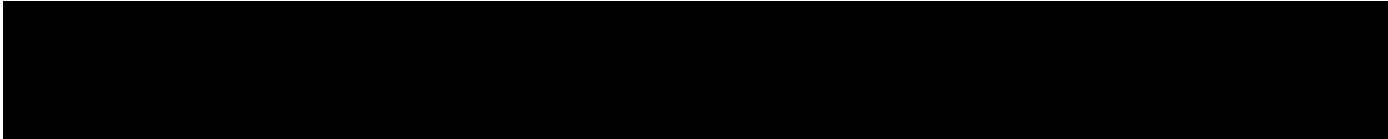
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Q. Okay. Who would make the decision about whether [REDACTED]

[REDACTED] file would be translated or not?

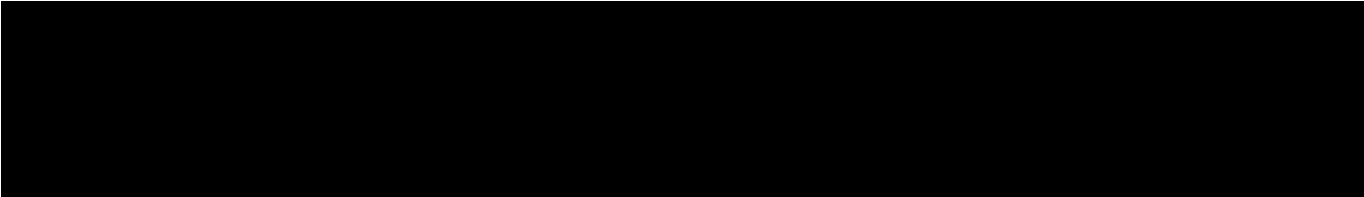
A. It -- if it didn't require a translation, it would not have been translated.

Q. So what was the determinative factors that would go into deciding whether or not a file required translation?

A. The language.

Q. The language?

A. I -- if it's -- if it's [REDACTED] English [REDACTED], it doesn't need translation.



Q. Okay. So was it your testimony in the past session that it was all Arabic except for one [REDACTED]

A. That was my testimony [REDACTED].

Q. Okay. Brilliant.

Okay. So the other [REDACTED] -- okay? -- what went into the decision whether or not to translate them or not? Just whether or not they were in English or not?

A. If -- if we had something in our possession that we could

1 translate, I wanted to have it translated.

2 Q. Okay.

3 A. I'm not going to ask an Arabic linguist to do a transcript
4 of an English [REDACTED].

5 Not necessary. So if it was available, if it was something that

6 we -- the FBI obtained when we received [REDACTED] it [REDACTED]

7 [REDACTED], I wanted to have it translated.

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 Q. Okay. So he's the alleged, quote, mastermind of the 9/11
12 attacks, right?

13 A. I -- the -- yes.

14 Q. Okay. Certainly, okay, if you had any [REDACTED] file that's
15 associated with Mr. Mohammad [REDACTED] -- right? -- and it wasn't in
16 English, you would want to get that audio file translated to see
17 what's on it, right?

18 A. Of course.

19 Q. Because this is the largest criminal investigation in the
20 history of the United States.

21 A. It is.

22 Q. Involving 3,000 deaths.

23 A. Yes, sir.

1 Q. Okay. So every audio file -- if a [REDACTED] file was
2 available and was in a separate language, you would get that
3 translated?

4 A. Yes.

5 Q. Okay.

6 A. If we -- again, I'm just -- I'm sitting here going through
7 the different scenarios. If I had a linguist available to me, I
8 would get it translated ----

9 Q. Okay.

10 A. ---- as evidenced by the fact that it took a long time to
11 do one of -- you know, [REDACTED].

12 Q. Okay. Do you have any specific recollection that you were
13 unable to get a [REDACTED] file translated because of a lack of
14 translation resources?

15 A. The [REDACTED] is an example of that there was
16 complications and ----

17 Q. But you eventually got that translated, right?

18 A. ---- we eventually got it done. I -- I'm not sure -- I
19 believe -- I know all of the Arabic was obviously translated. I know
20 that [REDACTED] with the Baluchi was translated. I -- I would have
21 to go back and do a reconciliation to properly answer your question.
22 I understand what you're asking. It's not something that I've looked
23 at in a very long time.

1 Q. Okay.

2 A. And I -- I just don't want to misspeak.

3 Q. Okay. All right. Let's talk now about another July 20th,
4 [REDACTED] okay? And I believe it's a totally different [REDACTED]
5 [REDACTED] than that July 20th one that's up on the board. Okay? But

6 first I need to clarify some dates and some background information.

7 In your direct examination in open session, the prosecution
8 asked you the following question, okay? So I'm just going to read
9 the question to you. Okay?

10 Now, at some point in 2004, did you begin working on behalf
11 of the United States v. Zacarias Moussaoui prosecution team?

12 And that's at official unauthenticated transcript 43079.

13 And you answered: I was helping them, yes.

14 All right. Do you remember that question and answer?

15 A. Yes, sir.

16 Q. Okay. Now, I want to get that date right because they
17 said at some point in 2004. You indicated before you prepared that
18 statement -- right? -- on 27 February 2024, right?

19 A. Yes, sir.

20 Q. Okay. And in that statement you gave a slightly different
21 time frame. You said you were -- while working alongside the United
22 States v. Zacarias Moussaoui prosecution team in 2002 and 2003.

23 So I just want to figure out which is accurate. You were on

1 the Moussaoui prosecution team or working with them, right?

2 A. I would categorize it that I was working with them. I
3 wasn't necessarily a part of the trial team.

4 Q. Absolutely. And that was, though, in 2002 and 2003; is
5 that right, consistent with your statement?

6 A. Yes, sir.

7 Q. Okay.

8 A. That is consistent.

9 Q. That's fine. Is that what your memory is, that you were
10 there in 2002/2003?

11 A. I mean, I -- so my role on Moussaoui kind of -- it
12 somewhat ebbed and flowed. I was -- after I started traveling to the
13 UAE, they -- if there were additional things that needed to be done,
14 I would help them out.

15 Q. Right.

16 A. With respect to the 2004 time frame, that was when we
17 started -- when they -- they were actually in a posture moving closer
18 toward trial, and there was somewhat, let's say, renewed discussions
19 because they were seeking -- the [REDACTED] were going to seek my help
20 in -- with certification of the financial records.

21 So if I was -- you know, in the event that I was going back
22 to [REDACTED] can you help with this?

23 So it's -- you know, it stretches over a period of time. So

1 I guess it would just depend on kind of what period of time we're
2 talking about and what I may or may not have been doing during that
3 time.

4 Q. Okay. But you had some role in the Moussaoui case,
5 whether assisting the prosecution, assisting other members of the
6 PENTTBOM team at least as early as 2002, some role?

7 A. Yes.

8 Q. Okay. Great.

9 On direct you mentioned that, given your past work or past
10 experiences in the FBI before September 11th, which was primarily
11 financial ----

12 A. Yes, sir.

13 Q. ---- conduct, right?

14 That you were given the mission or the assignment to, quote,
15 follow the money -- right? -- in the 9/11 investigation; is that fair
16 to say?

17 A. When -- it wasn't by myself.

18 Q. Absolutely. Absolutely.

19 A. So was I a part of a larger effort? Yes, I was.

20 Q. Okay.

21 A. Was this a kind of new territory for the FBI specifically
22 on counterterrorism matters? It was. I am not going to sit here and
23 say that I did all of this all by my lonesome ----

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1 Q. I'm not asking ----

2 A. ---- but it's certainly a team effort, yes.

3 Q. Okay. And part of the other people who were involved on
4 the team, Special Agent Aaron Zebley, right?

5 A. Aaron was on the PENTTBOM team, yes.

6 Q. Working on the Moussaoui case?

7 A. Working on the Moussaoui case. Aaron was assigned to the,
8 like, PENTTBOM and to the Moussaoui trial, yes.

9 Q. Special Agent Michael Butsch also worked the Moussaoui
10 case.

11 A. He did some, but he was also back in New York.

12 Q. Yeah.

13 A. He wasn't -- I knew Mike at that time, but I -- I don't
14 think he spent a significant amount of time down in the D.C. area.
15 And I -- I differentiate that because there was, like the, you know,
16 the PENTTBOM team that was collocated at -- you know, at FBI
17 Headquarters and over at EDVA.

18 Q. Joan-Marie Turchiano, was she also involved in the
19 Moussaoui?

20 A. Yes.

21 Q. Okay. Adam Drucker?

22 A. Yes.

23 Q. Okay. Frazier Thompson?

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1 A. I don't have firsthand knowledge of working with Frazier
2 on Moussaoui or PENTTBOM matters. What else he may have done, I
3 don't know. I can simply state how I interacted with him, and that
4 was not specific to the Moussaoui trial.

5 Q. Okay. Was it any interaction involving the 9/11
6 investigation?

7 A. Not by me.

8 Q. Okay.

9 A. But, again, I'm simply speaking from my perspective and
10 what his professional -- what he did in his professional career, he
11 would have to answer.

12 Q. Okay. Bradley Mendenhall?

13 A. And what's the question regarding ----

14 Q. Was he on the Moussaoui case or involved in the Moussaoui
15 case?

16 A. Again, to -- my interactions with Bradley -- Grant, but he
17 goes by Grant, but his -- my interactions with Bradley Mendenhall was
18 not on Moussaoui or on PENTTBOM. My interactions with Grant were
19 unrelated to the Moussaoui trial. I end up working with him or, you
20 know, for him in, I don't know, 2000 -- probably 2000 -- late 2006
21 forward.

22 Q. How about Mr. Greg **[sic]** King?

23 A. Craig King?

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1 Q. Uh-huh. Was he the Moussaoui case?

2 A. I don't -- I don't know. Again, I can speak to when I
3 interacted with different people and what I was doing. What their
4 professional -- what they did in -- before that, I have no idea.

5 Q. Okay. Now, at least in the -- in the media, in the news
6 at the time, Zacarias Moussaoui was described as the 20th hijacker;
7 is that right?

8 A. That has been in the news, yes.

9 Q. Okay. Was that the theory of the Moussaoui prosecution,
10 that he was the 20th hijacker?

11 A. I -- with respect to the legal theories and to exactly how
12 the case was prosecuted, I can't speak to that.

13 Q. Okay. You're aware, though, that Zacarias Moussaoui was
14 indicted in December of 2001, so about two months after the events of
15 September 11th, right?

16 A. Yes, sir.

17 Q. Okay. And the Moussaoui case represented -- basically it
18 was the -- I mean, it was the first chance for the American justice
19 system to kind of weigh in on what happened on September 11th, right?

20 A. Yes.

21 Q. Okay. And to determine responsibility.

22 A. Yes.

23 Q. Yeah. And, if appropriate, to impose punishment.

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1 A. Yes.

2 Q. Okay. And a huge issue in Moussaoui's case was the
3 transfer of moneys -- right? -- to Moussaoui?

4 A. It was part of his case, yes.

5 Q. Okay. And the moneys allegedly came at the direction of
6 Khalid Shaikh Mohammad, right? The order to transfer the moneys.

7 A. With respect to ordering the transfer of money, I -- I
8 can't say -- I can't sit here and say that Khalid Shaikh Mohammad
9 ordered it. I -- I can simply say that I know what the documents
10 look like, what, you know, what specific direction caused that to
11 happen.

12 Q. Okay.

13 A. Who the order came from is -- I can't sit here and say
14 that right now.

15 Q. Okay. So focusing on the documents, then, for a second.
16 Moussaoui eventually received moneys, correct?

17 A. Yes.

18 Q. Okay. And were you able to trace the moneys from, at some
19 point, Hawsawi to Ramzi Binalshibh to Moussaoui?

20 A. There are money transfers from Mustafa Ahmed al Hawsawi to
21 Ramzi Binalshibh.

22 Q. Okay.

23 A. And then there are subsequent transfers from Ramzi

1 Binalshibh to Zacarias Moussaoui.

2 Q. Excellent. Thank you.

3 Okay. Now, while you were working on the Moussaoui case or
4 with the Moussaoui prosecution in 2002 and 2003, you became aware
5 that the United States had a phone call, singular -- okay? -- that
6 you believed to be related to the September 11th attacks; is that
7 right?

8 A. I -- I heard about it, yes.

9 Q. One phone call, right?

10 A. I specific -- have specific recollection of one phone
11 call, yes.

12 Q. Certainly not 118.

13 A. No.

14 Q. Okay. Of course, you later discover -- right? -- that the
15 U.S. had more than this one phone call. But just to be clear, in
16 2002/2003, you were just aware of that one phone call, right?

17 A. Yes, sir.

18 Q. Okay. Now, when you're first aware of it -- okay? -- did
19 you actually have the [REDACTED] file or did you just hear of this call?

20 A. I wasn't working on it.

21 Q. Okay.

22 A. So I knew that -- I knew that other people were doing some
23 work on it if for no other reason than -- like, at some point in

1 time, like, I was -- I know that Adam Drucker had been -- had talked
2 about it. And at that time it fell into the category of things that
3 other people are handling, and I was quite busy with my own stuff and
4 my own assignments. So I -- you know, everybody has a -- everybody
5 has a job to do.

6 Q. Okay. You said Adam Drucker talked about it. What do you
7 recollect that Adam Drucker said about the July 20th call?

8 A. I remember him making reference to it. I recall
9 him -- like, certain names that he referenced, but -- and, you know,
10 they were talking about what they were -- he was trying to figure out
11 different things that they were talking about.

12 But Adam has -- Adam has an incredible brain. So he's
13 sitting here kind of rattling some of these things off, which -- and
14 I just thought to myself, that's great, they're getting some good
15 work done. I -- but I'm -- it's not something I was intimately
16 involved with.

17 Q. What are some of the things that you remember that
18 Mr. Drucker was rattling off?

19 A. I remember, like, [REDACTED]
20 [REDACTED] That's my recollection, and they were trying to figure out
21 what that meant. Again, it wasn't something that I was intimately
22 involved with, so I had awareness of it, thought they were doing some
23 good work, and went back to what I was handling.

1 Q. Okay. So when you say [REDACTED]

2 [REDACTED] Is that what you kind of understood

3 Mr. Drucker was confronting, coded language?

4 A. Yes, sir.

5 Q. Okay. Just like the -- kind of the coded language that

6 you had been dealing with on the other [REDACTED] calls that you

7 testified about, right?

8 A. Yes, sir.

9 Q. Okay. Now, that [REDACTED] was between Mr. Mohammad
10 and Ramzi Binalshibh, right?

11 A. I'm not sure.

12 Q. Okay. So let me see if I can -- would it, looking at your
13 statement, refresh your recollection ----

14 A. Yeah. Yes, please.

15 Q. ---- about who you believe the call was between?

16 A. Yes.

17 DC [MR. MONTROSS]: Your Honor, I'm showing -- if I may show
18 the witness what is Bates-stamped MEA-WALTZ 67B. This is the one
19 that's not in the record yet that Mr. Baluchi will be filing a 505
20 notice on. Again, this is a SECRET document banner marked. The
21 portion I'm going to show her, though, is unclassified, but I would
22 ask just that it be available to the commission, to the witness, and
23 to the attorneys, not to the gallery.

1 MJ [Col McCALL]: That's fine. And, again, it won't be
2 displayed to the gallery.

3 DC [MR. MONTROSS]: Okay. May I use it?

4 MJ [Col McCALL]: Go ahead.

5 Q. Okay. So, Ms. Waltz, I'm going to direct your attention

6 to [REDACTED]

7 And if you can look at the third line.

8 A. Yes, sir.

9 Q. Okay. Does that refresh your recollection that your
10 understanding was that the [REDACTED] call was between Mr. Mohammad and
11 Mr. Binalshibh?

12 A. Yes.

13 Q. Okay. Great.

14 Now, that [REDACTED] call, the Binalshibh/Mohammad
15 phone call, that occurred -- right? -- that [REDACTED] call occurred
16 shortly after Mohamed Atta and Binalshibh met in
17 Spain -- right? -- earlier in [REDACTED] 2001?

18 A. Yes, sir.

19 Q. Okay. And in that Spain meeting, which is, like, it's all
20 over the 9/11 Commission Report, right?

21 A. **[No audio]**.

22 Q. Okay. There were discussions between Atta and Binalshibh
23 about how the hijackings would occur, right?

1 A. So as it relates to the Spain meeting, I have kind of the,
2 I would say, 5,000-foot view of it.

3 This case is, for obvious reasons, huge. And for -- this
4 case is huge. And for obvious reasons, because of that, different
5 people have certain areas of expertise.

6 I have awareness of the meeting in Spain. I do know that
7 there was, you know, travel, that both of them traveled. The
8 specifics of that, I -- I couldn't sit here and rattle off dates to
9 you as to who was where and when and the exact tenor kind of even
10 what the 9/11 Commission reported on the -- you know, what exactly
11 occurred.

12 And, you know, they're -- in large part, in some instances,
13 I -- I just didn't even read parts of the 9/11 Commission because I
14 would want to rely on, you know, our evidence and -- so not to say
15 anything poorly of the report, just -- I just didn't -- I wouldn't
16 have relied on it and wouldn't have -- I didn't -- on certain areas,
17 so ----

18 Q. It was not a primary source for you?

19 A. Correct.

20 Q. Okay. So let me just, like, pick a few points to see if
21 you're familiar with this. Okay? Based on your own personal
22 knowledge or in the course of your investigation, were you aware that
23 [REDACTED] Atta and Binalshibh in that

1 Spain meeting?

2 A. In -- specifically in that Spain meeting?

3 Q. Yes.

4 A. I -- I don't know what they talked about.

5 Q. Okay. Did you have any knowledge that there were
6 discussions about when the attacks would occur?

7 A. Again, in ----

8 MTC [MR. TRIVETT]: Objection. Asked and answered. She said
9 she didn't know what they spoke about. These are just additional
10 questions about what they spoke about.

11 DC [MR. MONTROSS]: Judge, I thought I was pretty finite and
12 definite about what I was asking if she had knowledge of, based on
13 her investigation of what occurred in Spain.

14 MJ [Col McCALL]: Objection overruled.

15 Go ahead. Re-ask your question.

16 Q. Based on your work on the 9/11 case, were you aware in
17 Spain, during this meeting between Atta and Binalshibh, that there
18 were discussions about when the attacks would occur?

19 A. I -- I don't have knowledge of exactly what they
20 discussed ----

21 Q. Okay.

22 A. ---- in Spain.

23 Q. Were you aware that there were -- that information was

1 passed that the muscle hijackers had arrived in the United States
2 without incident during that Spain meeting?

3 A. I don't know what they talked about during the Spain
4 meeting.

5 Q. Okay.

6 A. I -- I'm sorry.

7 Q. That's fine.

8 Okay. After Binalshibh returns from Spain, he calls
9 Mohammad -- right? -- to tell him about the meeting with Atta?

10 A. Are you -- I ----

11 Q. And that's the [REDACTED] call, right?

12 A. That's what I was going to say. I know that there's a
13 [REDACTED] call that is -- that, you know, we're discussing. I
14 know that that call was between Khalid Shaikh Mohammad and Ramzi
15 Binalshibh. I know that the Spain meeting occurred right before
16 that. Is that something he does immediately upon return? It
17 happens -- the call happens after the Spain travel.

18 Q. Okay. Now, regarding the call, [REDACTED] you
19 said that Mr. Drucker [REDACTED]

20 A. I do recall those.

21 Q. Okay. The 9/11 report also says, regarding the [REDACTED]
22 [REDACTED] conversation, there was concern about the potential for delay,
23 and KSM at one point instructed Binalshibh to send [REDACTED]

1 [REDACTED] right? That's consistent with what Drucker was telling you
2 about that [REDACTED] call, right?

3 A. I recall Adam talking about [REDACTED]
4 was -- whatever type of direction -- I just recall those -- those
5 words.

6 Q. Okay.

7 A. And I don't recall exactly the -- like, what the -- you
8 know, what he was concluding that they meant.

9 Q. Did you understand [REDACTED] was eventually identified as
10 Moussaoui?

11 A. I know that -- I know that one of them was a reference.
12 Let me rephrase that.

13 I know that Adam Drucker and/or others that were working on
14 this had concluded that there was -- that there were references to
15 Moussaoui. Exactly who was -- who that was, I'm not 100 percent
16 sure.

17 Q. Okay.

18 A. Again, this isn't work that I did.

19 Q. Sure. I'm just asking you.

20 A. Understood.

21 Q. Okay. And you mentioned that "they," meaning the other
22 FBI agents and analysts, were working on this. Besides Mr. Drucker,
23 who were the other FBI agents or analysts who were working on this

1 [REDACTED] call?

2 A. I know at some point Adam was working with Aaron Zebley.

3 Q. Okay.

4 A. With respect to who else, I'm -- I'm not sure. So kind of
5 generally speaking, I was sitting up in a room at FBI Headquarters on
6 the fifth floor and the PENTTBOM team was relegated to the basement.
7 So they were sitting down on -- like, in a completely different
8 location at FBI Headquarters, not even remotely close.

9 So just because of, you know -- like, I wasn't in, like,
10 immediate proximity to them, the PENTTBOM team, on a day-to-day
11 basis. Adam, for a period of time, was sitting up in -- like, in the
12 small area where I was sitting. So that's why I had, you know -- I
13 had, you know, various conversations with him.

14 So with respect to what other people may have been working
15 on over here and exactly who was there and when, I can't speak to
16 that.

17 DC [MR. MONTROSS]: Okay. So I'm going to have a slight
18 transition here, Judge. It's your call. I'm ready to keep going,
19 but it's your ----

20 MJ [Col McCALL]: No, we can go ahead and take a recess.

21 All right. It's 10:33. Let's be back in here in 15
22 minutes.

23 **[The witness was excused and withdrew from the courtroom.]**

1 MJ [Col McCALL]: Commission's in recess.

2 **[The R.M.C. 803 session recessed at 1032, 16 April 2024.]**

3 **[The R.M.C. 803 session was called to order at 1051, 16 April 2024.]**

4 MJ [Col McCALL]: Commission is called to order.

5 The parties are present. The accused are absent.

6 If we could get Ms. Waltz back on the witness stand.

7 While she's coming in, I just -- a little bit of
8 housekeeping. During the break I had my staff touch base with
9 counsel about the document that was displayed to Ms. Waltz twice that
10 is going to be filed in one of Mr. Ali's -- based on one of their 505
11 notices.

12 So that is -- just to make it clear, it's going to be AE
13 942A Attachment B, is my understanding.

14 All right.

15 LDC [MR. CONNELL]: Sir?

16 MJ [Col McCALL]: Yes, Mr. Connell.

17 LDC [MR. CONNELL]: Confirmed. And it is being filed as we
18 speak.

19 MJ [Col McCALL]: Perfect. Thank you.

20 **[The witness, SIA Kimberly Waltz, resumed the witness stand.]**

21 MJ [Col McCALL]: All right. Ms. Waltz, welcome back. Please
22 have a seat.

23 All right. Mr. Montross, your witness.

1 DC [MR. MONTROSS]: Thank you.

2 Q. Okay. Ms. Waltz, welcome back.

3 A. Thank you.

4 Q. We left off on the [REDACTED] call between
5 Mr. Mohammad and Ramzi Binalshibh. Okay. I just want to close that
6 loop real quickly.

7 That's the call that Mr. Drucker [REDACTED]
8 [REDACTED]

9 A. Correct.

10 Q. That [REDACTED] call between Ramzi Binalshibh and
11 Mr. Mohammad is not the [REDACTED] call that's on the
12 call data sheet; is that right?

13 A. That's correct.

14 Q. Okay. And nowhere else on this call data sheet is that
15 [REDACTED] call between Ramzi Binalshibh and Khalid Shaikh
16 Mohammad reflected anywhere on that call data sheet, right?

17 A. That's correct.

18 Q. Okay. Great. Thank you.

19 Now -- okay. Now, in September [REDACTED] 2002, one year after
20 the events of September [REDACTED] 2001, Ramzi Binalshibh was captured,
21 right?

22 A. Yes.

23 Q. Okay. And he was one of the participants in that, as

1 we've just agreed upon, in that [REDACTED] 2001 [REDACTED] call with
2 Mr. Mohammad, right?

3 A. Yes.

4 Q. Okay. He, at least upon his capture, now becomes a
5 potential source of information about a lot of the allegations that
6 are in the Moussaoui case, right?

7 A. Yes, that's true.

8 Q. Okay. He -- he can provide answers about the transfer of
9 moneys to Moussaoui, right?

10 A. Presumably, yes.

11 Q. Okay. Well -- okay. He could also potentially provide
12 answers to, like, the coded language in that [REDACTED]
13 call, like, for example, [REDACTED]

14 A. He could, yes.

15 Q. Okay. [REDACTED]

16 A. He could.

17 Q. [REDACTED]

18 A. He could.

19 Q. Okay. And he could also probably assist your particular
20 piece of the Moussaoui investigation by helping to track the moneys;
21 is that fair to say?

22 A. He could, yes.

23 Q. Okay. Were you aware that by the time of his

1 capture -- and this is Ramzi Binalshibh I'm talking about -- in
2 September of 2002, that he had already been named as a co-conspirator
3 in the Moussaoui indictment? Were you aware of that?

4 A. I am aware that he was at least named in the Moussaoui
5 indictment as in part -- likely in the overt acts. Whether he was
6 named as a co-conspirator or not, I -- I don't recall.

7 Q. Okay. And you're making an excellent point. What I
8 should say is he was -- he was identified as an uncharged
9 co-conspirator in the Moussaoui case, right?

10 A. I -- I know that he -- again, as it relates to the overt
11 acts, that he was -- he was named in the ----

12 Q. Okay.

13 A. ---- in the Moussaoui indictment.

14 Q. Okay. And after his capture, Ramzi Binalshibh is in CIA
15 custody at that point, right?

16 A. At some point.

17 Q. Okay. You knew that, right?

18 A. At some point I became aware of that. I -- with respect
19 to the exact -- where he was and when and the specifics of all of
20 that, I -- I couldn't tell you that.

21 Q. Okay. At what point did you become aware that he was in
22 CIA custody?

23 A. I don't -- I have to -- I suspect by -- at some point in

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1 probably -- so in September of 2002 -- I'm trying to just frame my
2 answer. In September of 2002, I was in the UAE. I was with -- so
3 Adam Drucker and Abbey Perkins were in the UAE with me. [REDACTED]

4
5

6 Q. Um-hmm.

7 A. And then I do know at some point, you know, after a few
8 days, the exact timing I'm not sure, but they end up coming back to
9 the UAE. [REDACTED]

10

11 Q. Okay.

12 A. So with respect to when I learned that he actually was,
13 I'm not 100 percent sure. So we -- and probably, I would say, maybe
14 in late September time frame ----

15 Q. Okay.

16 A. ---- or October even. Because I know that at some point
17 we were trying to look at some of the material [REDACTED]

18 [REDACTED] So that's -- that's my frame of reference.

19 Q. Okay. You mentioned when his capture occurred, you were
20 in the UAE, right?

21 A. Yes.

22 Q. Okay. With Mr. Drucker, correct?

23 A. Yes.

1 Q. Okay. And Ms. Perkins, right?

2 A. Yes.

3 Q. Okay. At that point Mr. Drucker and Ms. Perkins left the

4 UAE [REDACTED] is that correct?

5 A. Yes.

6 Q. Okay. [REDACTED]

7 A. You would have to ask them.

8 Q. Okay. Do you know if they did?

9 A. I don't have any awareness of that, that they did, that,
10 so -- but, again, a question for them.

11 Q. Okay. Did they return with any physical evidence or
12 anything that was recovered [REDACTED]

13 A. They didn't carry -- they didn't bring any original
14 evidence to the UAE. [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 Q. Do you know if Mr. Drucker and Ms. Perkins viewed any of
18 the raid material [REDACTED]?

19 A. I don't know if they reviewed anything original or if they
20 reviewed copies. I know that they did see something. Exactly what
21 they saw, again, you would have to ask them.

22 Q. Okay. So you made a distinction between knowing that
23 Ramzi Binalshibh was going to go into CIA custody versus when he

1 actually went into CIA custody, right? That seems to be my
2 understanding of the distinction you're making.

3 A. Yes.

4 Q. Okay. When did you come to learn that he would be going
5 into CIA custody, whether he's there or not irrelevant, but that he
6 would be going into CIA custody?

7 A. It was my impression, at least, that when Adam and Abby
8 returned [REDACTED] back to the UAE where I was, that -- I recall
9 them saying that, you know, we're just -- this isn't -- you know,
10 this is -- we're not -- we're not going to be involved
11 some -- right? -- what their exact words were, I don't know. I can't
12 recall. But I do recall at least understanding that he was probably
13 not going to be indicted.

14 Q. Okay. And what -- okay. And what do you mean -- what did
15 you understand "were not going to be involved" to mean?

16 A. As in the FBI. And, again, that it -- at least at the
17 time, I know -- what I recall is that my impressions were Ramzi
18 Binalshibh was not going to be federally indicted.

19 Q. Okay. Because he was going into CIA custody?

20 A. However the custody was going to happen, but that it was
21 not going to be -- the federal marshals were not going to be
22 involved.

23 Q. Okay. And can you recall when you had that conversation

1 with Mr. Drucker and Ms. Perkins?

2 A. It just -- it would have been upon their return [REDACTED]

3 [REDACTED]. I can't recall exactly when.

4 Q. Okay. All right. So now I want to ask you some questions
5 about a document to see if you have knowledge of it. And we're going
6 to talk a lot more about it in classified session.

7 But are you aware that in November of 2002 -- okay? -- so
8 two months after Binalshibh's captured -- okay? -- FBI agents
9 involved in the Moussaoui prosecution prepared a communication
10 message form from the FBI to the CIA for questions to be asked of
11 Ramzi Binalshibh, okay? Are you aware of that?

12 A. I -- I don't know that I have recollection of that
13 specific -- are you -- is it -- you're saying messages -- are you
14 talking about a cable or like ----

15 Q. Well, it's titled -- let me show it to you and see if it
16 refreshes your recollection. Okay?

17 A. Okay.

18 DC [MR. MONTROSS]: Judge, can you just give me a little ----

19 MJ [Col McCALL]: Yeah. No need to ask. You can take your
20 time to confer, and we'll make sure we get this right.

21 **[Counsel conferred.]**

22 DC [MR. MONTROSS]: Judge, instead of putting this up on the
23 document camera, may I approach the witness and show her the

1 document, and then retrieve the document, to refresh her
2 recollection?

3 MJ [Col McCALL]: That's fine. And can you just tell me what
4 the document is?

5 DC [MR. MONTROSS]: I'm absolutely going to do that.

6 Okay. So this is a document -- and let me give you the
7 Bates numbers first. It's MEA-FBI-00024369 through MEA-FBI-00024400,
8 and it's found in the record at AE 628IIIII -- so it's I to the
9 fifth -- (AAA) Attachment F.

10 MTC [MR. TRIVETT]: Your Honor, could I have one second to
11 consult with Mr. Montross again?

12 MJ [Col McCALL]: That's fine.

13 **[Counsel conferred.]**

14 DC [MR. MONTROSS]: Judge, I may need to do this in closed.

15 MJ [Col McCALL]: Okay.

16 DC [MR. MONTROSS]: But if I can just explore just a wee bit
17 further. I'm not going to show her the document.

18 MJ [Col McCALL]: Okay.

19 DC [MR. MONTROSS]: I'm going to have to do it in closed.

20 Q. Ma'am, are you -- Ms. Waltz, I'm sorry.

21 A. No worries.

22 Q. Okay. Are you aware that when Mr. Binalshibh was in CIA
23 custody -- okay? -- that the FBI were preparing questions or

1 requirement cables or forms submitting questions from the FBI to the
2 CIA to ask of Mr. Binalshibh?

3 A. At -- at some point in time I became aware of that, that
4 that was -- that that was occurring or was at least possible and that
5 it was -- that questions were going to be sent.

6 Q. Okay. Are you aware that Special Agent Zebley drafted a
7 30-page document of questions for Ramzi Binalshibh in [REDACTED]
8 2002 [REDACTED]

9 A. At some point in time I did become aware that Aaron wrote
10 a lengthy cable.

11 Q. Thirty pages. Is that the lengthy cable?

12 A. Yes.

13 Q. Okay.

14 A. And I don't -- I don't believe that was actually in
15 [REDACTED] 2002 that I had awareness of that. I actually think it
16 was probably, I would say, significantly later. And I
17 don't -- my -- so, yeah. In [REDACTED] 2002, I did not know that
18 Aaron Zebley was writing a -- writing that cable.

19 Q. Okay. Were you aware that some of the questions that were
20 being posited by the FBI [REDACTED]
21 concerned the [REDACTED] call between Ramzi Binalshibh and
22 Mr. Mohammad?

23 A. I learned of it later.

1 Q. Okay.

2 A. But at the time it was happening, I did not.

3 Q. Okay. When did you learn of it?

4 A. Probably 2003/2004 time frame. And I'm only -- that's,
5 again, based upon where I was working at the time. Because, again, I
6 learned of that through Adam Drucker.

7 Q. Okay.

8 A. He made mention of it.

9 Q. Okay. And what did he say to you?

10 A. That Aaron wrote a really long cable with a lot of
11 questions. But, I mean, again, that was my understanding. What the
12 questions are and what the specifics of that -- those questions,
13 I've -- I didn't know.

14 Q. Okay. In 2002/2003, cables were coming out of the CIA
15 black sites based on the interviews with Ramzi Binalshibh. Did you
16 start reading those cables in 2002/2003?

17 A. At some point -- so in -- first of all, cables were really
18 difficult to get.

19 Q. Why?

20 A. Because our systems were not great.

21 Q. How did you get them?

22 A. So, I mean, there were instance -- instances that somehow
23 they would be printed out or there was a -- excuse me -- there was a

1 computer, you know, we could access to -- like, one computer at some
2 point that could be used to access cable traffic. I didn't have a
3 logon to that. I know that Adam Drucker did.

4 And then at some point, I think there was some reporting
5 that became available through our -- kind of through the FBI, like
6 FBINet, so we were getting some cables. With respect to exactly
7 when, it's really hard for me to say. I'm -- I don't know.

8 Q. Can you tell me in an open session, what is FBINet?

9 A. Like the computer that's at my desk.

10 Q. Okay.

11 A. That -- like, is the FBI enclave, like the Secret -- like
12 SECRET//NOFORN enclave that has the CS, it has my e-mail ----

13 Q. Okay.

14 A. ---- and our internal FBI intranet, just ----

15 Q. Okay. And so would anyone in the FBI -- if the cables end
16 up on FBINet, anyone in the FBI could then access those cables,
17 correct?

18 A. So the -- when I say "FBINet," I'm referring to, like, the
19 bigger, like, system. You know, we have all of our Microsoft -- or
20 at the time it wasn't Microsoft. It was Corel, WordPerfect,
21 but -- so all of our -- you know, all the icons on my desktop I would
22 refer to as FBINet.

23 With respect to how we would access specific, like,

1 serialized documents, that would be ACS ----

2 Q. Okay.

3 A. ---- at that time.

4 And if something was put into ACS, if you searched for it,
5 you could get it, unless for some reason it was restricted or -- but
6 if it was in there, again, unless somehow it was restricted, which
7 did happen, then you could -- you could read it, yes.

8 Q. Okay. And you indicated sometimes that -- that cables
9 would be printed out for you. Would they be printed out -- like,
10 would Mr. Zebley print out a document for you and, like, leave it on
11 your desk or Mr. Drucker? Were cables being handed to you from other
12 agents who were involved in either PENTTBOM or the Moussaoui
13 prosecution?

14 A. I would have gotten some stuff from Adam Drucker. But as
15 it -- you know, as you're framing this as it relates to Ramzi
16 Binalshibh, I didn't do a lot of work on Ramzi. So even some of the
17 kind of specifics, like, it just wasn't my area of kind of -- you
18 know, what I was focused on, so ----

19 Q. How about the money, though, from Ramzi to Moussaoui? I
20 mean, that's the -- it seems to me, like, given your background and
21 your expertise, your mandate to kind of -- I mean, your mission, your
22 mandate, your orders to follow the money ----

23 A. Uh-huh.

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1 Q. ---- it seems like at least the moneys that were going
2 from Ramzi Binalshibh to Moussaoui would be totally within your lane.
3 Am I wrong about that?

4 A. No, that's correct. But, you know, if there was a lot of
5 other stuff going on as it relates to Ramzi, I didn't necessarily
6 focus on that.

7 Q. Okay.

8 A. And the other part of this is I -- I -- this wasn't, like,
9 the sole thing I was working on. So I -- you know, I had other
10 assignments as well. So the -- if there were -- I guess if
11 there -- I can't recall exactly when I would have had or would have
12 seen the reporting as it relates to Ramzi Binalshibh.

13 Q. Okay.

14 A. And then I do know that -- and I don't recall when this
15 happened, but even when we did see some of the reporting, at some
16 point there was this -- like, the cables would say, like, senior
17 al Qaeda detainee.

18 Q. Um-hmm. And it wouldn't mention the name of the actual
19 detainee? Is that what you're saying?

20 A. There were instances of that, yes.

21 Q. So how were you able to surmise -- because I've seen those
22 cables. I've always been, like, curious about this. How would you
23 surmise who the senior al Qaeda detainee was? Was it just based on

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1 where -- where the reporting was coming from or who was there or ----

2 A. I had no knowledge of who was there, where the reporting
3 was coming from. I mean, this was -- anything that came out was just
4 in disseminated cable traffic. So there were instances, I
5 would -- if you saw something, like -- I don't -- I didn't always pay
6 attention to it, because I didn't necessarily know who was saying it,
7 and so it was difficult.

8 Q. Could you determine who was saying it based on the content
9 of the cable?

10 A. Sometimes.

11 Q. Okay.

12 DC [MR. MONTROSS]: Judge, I just need one second to think if
13 I can do this in open. I'm sorry.

14 MJ [Col McCALL]: No, that's fine.

15 **[Pause.]**

16 Q. Going back to the [REDACTED] call -- and I'm sorry to do
17 this -- but the [REDACTED] 2001 call between Ramzi and Mohammad. Was
18 there eventually a transcript or a translation of that call that was
19 obtained by the FBI?

20 MTC [MR. TRIVETT]: Objection. Asked and answered.

21 MJ [Col McCALL]: Objection overruled.

22 A. I don't know. I would -- I don't know.

23 Q. Was this call ever introduced, to your knowledge, into

1 evidence at the Moussaoui prosecution?

2 A. To my knowledge, no.

3 Q. Okay. Do you know why not?

4 A. I -- that would have been a decision for the prosecution
5 team ----

6 Q. Okay.

7 A. ---- or the [REDACTED] involved.

8 Q. Okay. Are you aware that the audio of this call was never
9 produced to the defense in this case? Are you aware of that?

10 A. I -- I don't know.

11 Q. Okay. Are you aware that there was never a transcript or
12 a translation of that call that was ever produced to the defense in
13 this case?

14 A. I -- I don't know.

15 Q. Okay. All right. We're going to change subjects. Okay?

16 A. Okay.

17 Q. Stephen Gaudin, okay. In May of 22 -- the 22nd of May in
18 2018, you were present during an interview of FBI Special Agent
19 Stephen Gaudin. Do you recall that?

20 A. I -- I'm taking the date on your word just based upon
21 probably the document.

22 Q. Okay. Thank you. I will check and correct it if it's in
23 error, but May 22nd, 2018, FBI Special Agent Stephen Gaudin's

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1 interviewed -- okay? -- by video teleconference, is that the way the
2 interview occurred?

3 A. That's my recollection, yes. It was like a SVTS, like a
4 classified VTC.

5 Q. Great. And you were present for this video interview?

6 A. I was.

7 Q. Okay. Also present was FBI Supervisory Special Agent Mary
8 Boese?

9 A. Boese.

10 Q. Boese.

11 A. Um-hmm.

12 Q. Okay, B-O-E-S-E?

13 A. Yes.

14 Q. And she was present?

15 A. Yes.

16 Q. Okay. Assistant United States Attorney Mark Miller.

17 A. Okay.

18 Q. Okay. Do you remember him being present?

19 A. I don't have specific recollection of Mr. Miller, but if
20 you're going based upon the document that was -- that was written,
21 I'm going to rely on the document that was written.

22 Q. Okay. Do you remember Prosecutor Jeff Groharing being
23 present?

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1 A. Again, I -- I think there were probably several people
2 there. I don't have specific recollection of who was there. I would
3 have to refer back to the document.

4 Q. Okay. If I show you the document, would that refresh your
5 recollection?

6 A. Yes.

7 **[Counsel conferred.]**

8 DC [MR. MONTROSS]: Judge, because of classification issues,
9 I'm going to ask to approach the witness to refresh her recollection
10 with this document. But if I could just put on the record what it is
11 and where it could be found in the record, with your permission?

12 MJ [Col McCALL]: Perfect.

13 DC [MR. MONTROSS]: Okay. So this is a three-page document.
14 It's MEA-GAUDIN-1183, 1184, and 1185, and it is found in the record
15 at AE 628VVVVVVV (AAA) Attachment C.

16 And, Your Honor, if I may approach the witness?

17 MJ [Col McCALL]: Go ahead.

18 Q. And, Ms. Waltz, I'm just going to ask you when you review
19 this document, which I believe you know what it is, it's the
20 memorandum of the interview, if you can direct your attention to the
21 first paragraph.

22 A. Will do. Thank you.

23 Q. If you can just let me know when you're done.

1 A. Okay.

2 Q. Okay.

3 DC [MR. MONTROSS]: Can I retrieve the document, Judge?

4 MJ [Col McCALL]: Please do so.

5 Q. Does that refresh your recollection about who was present
6 at the meeting?

7 A. It does.

8 Q. Great. Okay. So Mr. Groharing, prosecutor, Mr. Groharing
9 was present at the meeting?

10 A. Yes.

11 Q. Okay. And prosecutor Mr. Ryan was present at the meeting?

12 A. Yes.

13 Q. Okay. There's also an individual who's identified as

14 [REDACTED]. Is [REDACTED] -- is he an intelligence analyst?

15 A. I saw his name on there, also. I -- I don't recall who he
16 is. I'm not sure. I don't know him.

17 Q. Okay. Through, like, my LinkedIn research ----

18 MTC [MR. TRIVETT]: May I consult Mr. Montross briefly?

19 MJ [Col McCALL]: Go ahead.

20 **[Counsel conferred.]**

21 Q. Well, Walid Bin'Attash is not the only one with an alias.

22 Do you know [REDACTED], Analyst [REDACTED]

23 A. Yes, I do know -- I don't know him well, but I know who he

1 is, yes.

2 Q. Okay. So if I can represent, and the prosecution can
3 correct me if I'm wrong, [REDACTED] is more routinely known as
4 [REDACTED] if that's fair and accurate.

5 Okay. All right. So who is [REDACTED]

6 A. He's assigned to the USS COLE prosecution, to the Nashiri
7 team.

8 Q. Okay.

9 A. But he's not with the FBI.

10 Q. Okay. Who is he with?

11 A. [REDACTED]

12 [REDACTED]

13 Q. Okay. Do you know if he works with [REDACTED] a
14 private contracting firm?

15 A. I don't know. [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 Q. Okay. And what was the purpose of this interview with
19 Special Agent Gaudin?

20 A. If I recall, it was to -- we were trying to get some
21 information as it related to the -- the -- the 538 -- the 538
22 series ----

23 Q. Okay.

1 A. ---- litigation. So we were trying to -- trying to get
2 some information regarding the coordination that he may have had
3 between the -- like, [REDACTED].

4 Q. Okay. Was his interview recorded?

5 A. No.

6 Q. Okay. So not video recorded, correct? Not audio
7 recorded? There was no stenographer? Nothing?

8 A. Correct.

9 Q. Okay. Who prepared that memo I just showed you, that
10 three-page memo? Did you prepare that memo?

11 A. No, sir.

12 Q. Okay. Who prepared that memo?

13 A. Mary Boese.

14 Q. Okay. Were there notes being taken during the course of
15 this interview?

16 A. Mary Boese would have taken notes, if any. She was
17 responsible for that.

18 Q. Okay. And was that a decision made beforehand kind of
19 going into the meeting, that if there were any notes that were to be
20 taken, Mary Boese would take the notes?

21 A. Yes, sir.

22 Q. Okay. That three-page document that I showed you, that's
23 a typewritten document, right?

1 A. Yes.

2 Q. Okay. That's a memo that was prepared after the interview
3 concluded with Special Agent Gaudin, right?

4 A. Yes.

5 Q. Okay. But Mary Boese was taking notes during the actual
6 course of the interview, though, right?

7 A. I believe so, yes.

8 Q. Okay. Who led the questioning during this interview?

9 A. I -- I have specific recollection of Ed Ryan talking.

10 Q. Okay.

11 A. That's -- that's my-- that's my recollection. I
12 don't -- if Mary asked some questions, some follow-up questions,
13 maybe, but I -- so I -- but that's my general recollection.

14 Q. Okay. And Special Agent Gaudin appeared via
15 videoconference call, right? He wasn't present in the room?

16 A. That's correct.

17 Q. Right. Do you know if anyone else was present in the room
18 where Special Agent Gaudin was?

19 MTC [MR. TRIVETT]: Objection. Relevance.

20 DC [MR. MONTROSS]: Did he have a lawyer, I think is very
21 relevant.

22 MJ [Col McCALL]: Can you explain more?

23 DC [MR. MONTROSS]: Because I think it goes to -- well, can I

1 not do it in front of the witness? The fact that ----

2 MJ [Col McCALL]: Hold on. I -- I'm just thinking.

3 Yeah. Ms. Waltz, if you could step out of the courtroom.

4 WIT: Yes, sir.

5 **[The witness was excused and withdrew from the courtroom.]**

6 MJ [Col McCALL]: All right. The witness has left the
7 courtroom. Go ahead.

8 DC [MR. MONTROSS]: Your Honor, the fact that he would be
9 represented by a lawyer raises a whole host of issues.

10 Number one is, if he's represented by a lawyer because
11 there's potential Fifth Amendment or culpability issues involved in
12 what Special Agent Gaudin was doing -- if you recall, this is the
13 agent who was present, okay, at a location during the interrogation
14 of another detainee. It's an agent who Dr. Mitchell represented had
15 favorable perspectives about what was occurring in that location.

16 So this is -- Gaudin is very unlike all the other FBI
17 agents. He was -- he was present and there -- okay? -- in one of the
18 locations during the black sites. So there's -- and that's what
19 they're asking him about. They're asking him about FBI/CIA
20 coordination in the black sites.

21 So if he had a lawyer, that's certainly something that
22 Mr. Engle is going to be questioning ----

23 MJ [Col McCALL]: I've heard enough.

1 Mr. Trivett, do you have anything further on that? I mean,
2 it seems relevant.

3 MTC [MR. TRIVETT]: I don't know why it's within the scope of
4 the direct of this witness. Obviously, Special Agent Gaudin is going
5 to be here. Those questions can be asked of him. But I don't
6 understand why it's relevant to this witness, Your Honor.

7 MJ [Col McCALL]: Understood. Objection overruled.

8 If we can bring Ms. Waltz back in.

9 **[The witness, SIA Kimberly Waltz, resumed the witness stand.]**

10 Q. Sorry about that, Ms. Waltz.

11 A. No worries.

12 Q. Okay. Was anyone else present in the room with Special
13 Agent Gaudin during the course of this -- this interview?

14 A. I -- I don't recall.

15 Q. Okay. Do you know if he indicated that he was represented
16 or -- or present with a lawyer during the course of it?

17 A. I don't recall that.

18 Q. Okay.

19 A. I'm sorry.

20 Q. Okay. So there's going to be a lot more I'm going to ask
21 you about this interview, but I believe it needs to happen in closed
22 session. Okay.

23 A. Okay.

1 Q. Okay. I know you've been waiting for this, so we're going
2 to start talking about [REDACTED]

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17 A. Yes, sir.

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20 A. No, sir.

21 Q. Okay. Who made the decision about [REDACTED]

22

23 A. That was a decision made by the prosecution.

1 Q. Okay. And what was the basis for the decision? Like,

2

3 A. It -- can I -- I'm not sure what I can say ----

4 Q. Absolutely.

5 A. ---- in open session.

6 Q. Absolutely.

7 A. I apologize.

8 Q. Absolutely.

9 A. Can I ask about classification?

10 MJ [Col McCALL]: Sure. Just hold on a second. I see trial
11 counsel considering this.

12 **[Counsel conferred.]**

13 MJ [Col McCALL]: Mr. Trivett?

14 MTC [MR. TRIVETT]: Based on the question, we're not sure
15 exactly what the answer would be. So it would be hard for us to
16 formulate whether or not it's protected by PO #3.

17 MJ [Col McCALL]: So ----

18 MTC [MR. TRIVETT]: If we can consult with the witness?

19 MJ [Col McCALL]: Well, that was -- exactly.

20 MTC [MR. TRIVETT]: Okay.

21 MJ [Col McCALL]: So I'm fine with that.

22 So, Ms. Waltz, if you could step off the witness stand and
23 consult with Lieutenant Commander Baxter and Mr. Trivett.

1 **[Counsel conferred with the witness.]**

2 MJ [Col McCALL]: Mr. Montross, if you would just lean in a
3 little bit and ----

4 DC [MR. MONTROSS]: I'm sorry, Judge.

5 MJ [Col McCALL]: No, you're fine. These mics don't always
6 pick things up.

7 DC [MR. MONTROSS]: If it's an assertion of national security
8 privilege, then I guess I understand why I can't be present during
9 this conversation. But it seems like we don't know the answer, is
10 part of the problem right now.

11 MJ [Col McCALL]: Right.

12 DC [MR. MONTROSS]: And, you know, I'm going to object to
13 being excluded from this conversation with the witness when there's
14 been no firm assertion of national security privilege.

15 MJ [Col McCALL]: I understand. Objection overruled. So
16 noted.

17 But go ahead, Mr. Trivett. I'll allow you to ----

18 LDC [MR. RUIZ]: May I be heard on this, Judge?

19 MJ [Col McCALL]: Sure.

20 LDC [MR. RUIZ]: And I understand I'm not conducting the
21 examination, so I'm reticent to jump in. But since it is something
22 that I think will impact us moving forward procedurally, I'm going to
23 have a couple comments here which is this does not seem to be raising

1 a classification issue. It seems to be an issue that is addressing
2 the decision-making and the rationale [REDACTED]

3 [REDACTED]

4 And so I object to the witness being allowed to confer with
5 the prosecution on that issue. For instance, if the answer is there
6 was a review of the content of the calls and they felt that these
7 calls were the appropriate ones and the most inculpatory, there's
8 nothing that implicates a classification issue there, but the witness
9 should not be allowed to engage in those types of discussions.

10 If there is a legitimate classification issue, I see that as
11 very different. But I just don't want us to go down this road during
12 the remainder of her testimony.

13 MJ [Col McCALL]: No, understood.

14 DC [MR. MONTROSS]: Judge, can I join that objection?

15 MJ [Col McCALL]: Sure.

16 Mr. Trivett.

17 MTC [MR. TRIVETT]: The prosecution would be willing to

18 stipulate that it was a prosecution team decision on the [REDACTED]

19 [REDACTED]. But the way the question was asked, obviously both us and the
20 witness were unsure as to whether or not she could answer if she was
21 answering otherwise and whether or not that would implicate
22 Protective Order #3.

23 MJ [Col McCALL]: Yeah.

1 DC [MR. MONTROSS]: Just to be clear, we may be cross-speaking
2 or something.

3 MJ [Col McCALL]: Well, let's do this ----

4 DC [MR. MONTROSS]: I thought it was [REDACTED] I was asking
5 about.

6 MJ [Col McCALL]: Let's do this -- and, again, this is going
7 to be a slow process. I anticipate this will be this way all week,
8 and that's fine.

9 So I'd like counsel to crosstalk. Like, if you can confer
10 and just make sure that it's clear what you're asking and what
11 Mr. Trivett's position is.

12 We'll do this while we're in session. So I don't anticipate
13 this will take too long, make sure we're on the same page on why
14 trial counsel wishes to talk with the witness, and then let me know.

15 DC [MR. MONTROSS]: Okay. Thanks, Judge.

16 MJ [Col McCALL]: Sure. And just make sure you step away from
17 the podium.

18 **[Counsel conferred.]**

19 MJ [Col McCALL]: All right. Mr. Montross, are you going to
20 maybe rephrase or ----

21 DC [MR. MONTROSS]: I'm going to ask if the -- if the
22 prosecutor could please speak with the witness ----

23 MJ [Col McCALL]: All right.

1 DC [MR. MONTROSS]: ---- in my absence and determine if the
2 answer potentially causes problems.

3 MJ [Col McCALL]: All right. Ms. Waltz, you can step off the
4 witness stand.

5 And, Mr. Trivett and Lieutenant Commander Baxter, if you
6 need to ----

7 WIT: Can I ask one question, please?

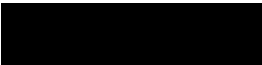
8 MJ [Col McCALL]: Go ahead.

9 WIT: Can you state the question again just so that I can be
10 clear as to what I'm -- right? -- because ----

11 MJ [Col McCALL]: Sure.

12 WIT: I just want to make sure.

13 MJ [Col McCALL]: No, that's -- go ahead and ask your question
14 again, Mr. Montross.

15 Q. What was the process for choosing that these 
16 ended up on the call data sheet?

17 A. Okay. Thank you.

18 Q. Okay. Thank you.

19 **[Counsel conferred with the witness.]**

20 MJ [Col McCALL]: Mr. Trivett?

21 MTC [MR. TRIVETT]: The prosecution would assert Protective
22 Order #3 over the answer.

23 MJ [Col McCALL]: All right.

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1 MTC [MR. TRIVETT]: And to clarify, as we believe the answer

2

3

4 MJ [Col McCALL]: All right.

5 DC [MR. MONTROSS]: Of course, we have a standing objection.

6 MJ [Col McCALL]: Understood.

7 DDC [LT XU]: Your Honor ----

8 MJ [Col McCALL]: Yes.

9 DDC [LT XU]: ---- may we be heard on this issue?

10 MJ [Col McCALL]: Sure.

11 DDC [LT XU]: So, Your Honor, I think this conflation of
12 Protective Order #3 and national security privilege has been an issue
13 for the last couple of days. But as the commission issued Protective
14 Order #3, that's ultimately your decision and so I'm not sure whether
15 the prosecution is saying that that -- they can't unilaterally make a
16 decision on whether that's an actual violation of Protective Order
17 #3. Only you can.

18 And so we would just ask for a clarification on that. And
19 making certain ----

20 MJ [Col McCALL]: I -- I understand your position. Did you
21 need to say more on that? I mean -- I'm sorry. I didn't mean to cut
22 you off. But I understand what you're saying.

23 **[No audio]**

1 MJ [Col McCALL]: All right. Based on my understanding of the
2 government's position on Protective Order #3 and the sources and
3 methods that they are trying to protect, I understand why they're
4 saying that this is protected under Protective Order #3. So, yeah, I
5 understand that, and I agree that it is protected under it.

6 Go ahead, Mr. Montross.

7 Q. So now I'm going to narrow the universe a little bit more.

8 Okay? [REDACTED]

9 [REDACTED]

10 A. That's correct.

11 Q. For use in the prosecution's case in chief?

12 A. That's correct.

13 Q. Okay. What was the criteria -- or criteria -- that
14 resulted or was used to choose these [REDACTED] as affirmative
15 use evidence?

16 A. That was a prosecution decision.

17 Q. Okay. And what was that decision based on? Was it based
18 on [REDACTED]

19 A. That was a prosecution -- that was a decision made by the
20 prosecutors, what they want to choose to affirmatively present during
21 their case.

22 Q. Okay. Did you make any recommendations about what [REDACTED]
23 had evidentiary value, meaning, like, kind of affirmative-use value

1 to be selected?

2 A. I could simply provide what my conclusions were on the
3 discussions. And from there, it was their choice to evaluate.

4 Q. Okay. So [REDACTED] you said your conclusions. Did you
5 provide, like, a recommendation or a conclusion about each [REDACTED]
6 [REDACTED], and then they selected among your conclusions?

7 A. What they chose, how they evaluated and determined, came
8 to [REDACTED], again, that's -- that's a prosecution decision. What went
9 into that, what was evaluated, what was given more weight versus
10 others, that -- that's not my decision.

11 Q. Okay. It was viewed by the prosecution team based on
12 their prosecution needs, is what I hear you saying.

13 A. Whatever -- whatever determination they made and whatever
14 thought process and their evaluation is -- I can't speak to that at
15 all.

16 Q. [REDACTED] or, you know, conclusions of
17 [REDACTED] did you provide to them to choose from?

18 A. I'm not -- I'm not sure. I'm sorry.

19 Q. Well, was it [REDACTED] that they were choosing from?

20 A. They reviewed [REDACTED].

21 Q. Okay. Do you know how many ----

22 A. No.

23 Q. ---- they reviewed?

1 Okay. Can you give me an estimate?

2 A. I'm not going to try to estimate. I'm sorry.

3 Q. Okay. Would there be [REDACTED] that you
4 provided to them that they had -- had the ability to choose from?

5 A. If there was a translation done, as I said before, I
6 reviewed the translation. If there was something in that translation
7 that they wanted to ask about, I -- again, that -- that's -- that
8 would have been up to them.

9 Q. Okay. So let's take a peek at the call data sheet,
10 okay? So to your left. Okay. [REDACTED]

11 [REDACTED] is that right?

12 A. Yes.

13 Q. Okay. And that's dated April 3rd, 2001, right?

14 A. Yes, sir.

15 Q. Okay. [REDACTED]

16 A. Yes.

17 Q. It's not bolded -- right? -- [REDACTED]

18 [REDACTED] were not provided to the defense,
19 right? Is that your understanding?

20 A. That's my understanding.

21 Q. Okay. [REDACTED] just to be sure I'm
22 being accurate, [REDACTED]

23 A. Yes.

1 Q. Okay. And [REDACTED]
2 A. Yes.
3 Q. Okay. [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 A. That's correct.
7 Q. Okay. Do you know who the speakers [REDACTED]
8 [REDACTED]
9 A. Sitting here right now, no, I do not.
10 Q. Okay. If you have -- if you had previously identified
11 another [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 A. Not necessarily.
15 Q. Okay. So there are times -- are you saying that there are
16 times where [REDACTED]
17 [REDACTED]
18 A. I testified to that previously ----
19 Q. Okay.
20 A. ---- to [REDACTED] were.
21 Q. Okay. Do you know, did you possess [REDACTED]
22 [REDACTED]
23 A. I -- I don't know.

1 Q. Okay. Do you know if a transcript or a translation was
2 made [REDACTED]

3 A. Again, I'm not sure. In all the lead-up to every -- you
4 know, the work that I did to even prepare for the testimony,
5 I -- I -- I didn't go back to look at everything else. So
6 I -- sitting here right now, I don't -- I don't know.

7 Q. Okay. It would make sense, though -- right? -- if you had
8 [REDACTED]
9 that that would be something that you perhaps had [REDACTED] for
10 and would translate it, right?

11 A. I -- I -- I don't know.

12 Q. Okay.

13 A. So I would have to just say I'm not sure.

14 Q. Okay.

15 A. If we had a file, if I received [REDACTED] I -- I
16 wanted to get it translated.

17 Q. Yeah.

18 A. Exactly sitting here right now, what was and was not done
19 and all these other kind of iterations of that, I -- I can't -- I
20 don't know.

21 Q. Okay. And if I was to stand here today, and if I was to
22 ask you about the content [REDACTED] you wouldn't be able to
23 answer because of national security privilege, right?

1 A. Right now I can't answer because I don't remember.

2 Q. You don't know if there's content or not.

3 A. So -- but I'm not -- I'm not prepared to say yes or no
4 just because I can't recall.

5 Q. Okay. So let me ask you a related question, then.

6 As we sit here today -- okay? -- for any [REDACTED] that's not
7 bolded up there -- right? -- so for any [REDACTED]
8 [REDACTED] -- okay? -- are you able to tell me whether or not there's content
9 associated with any of [REDACTED]

10 A. Not sitting here right now.

11 Q. Okay.

12 A. I -- I -- I wouldn't even attempt to do that.

13 Q. Okay. But you could go back and review the transcripts or
14 the translations and make that determination later on, right? That
15 evidence is not lost, right? It's just not available to you right
16 now?

17 A. If there was a translation done that -- I keep coming back
18 to if there was a translation done -- excuse me -- I could review it
19 again.

20 Q. Okay.

21 DC [MR. MONTROSS]: Judge, could I have one moment just to
22 consult with counsel?

23 MJ [Col McCALL]: Sure.

1 [Counsel conferred.]

2 DC [MR. MONTROSS]: Judge, just a few more questions.

3 MJ [Col McCALL]: That's fine.

4 Q. Okay. Ma'am, you indicated that you provided materials to
5 the prosecution from which they selected which would be [REDACTED]
6 that would be the basis of the affirmative-use evidence; is that
7 right?

8 A. Yes, sir.

9 Q. Okay. When you were making that -- that -- that -- the
10 content to provide to the government, you just didn't turn over
11 the -- like, the translation [REDACTED] to the government, right?
12 It also reflected, like, your analysis?

13 A. So ----

14 Q. So I guess I'm asking: What did you turn over to the
15 government for each [REDACTED]

16 A. I have a -- you know, there's a discussion. So I've
17 been -- you know, I sit, we look at it, and I'm like, okay. Like,
18 you know, we have this.

19 Q. What does that mean, "like, we have this?" What are you
20 referring to?

21 A. So if there was, you know, a particular statement [REDACTED]
22 [REDACTED] that I thought, believed that was potentially
23 referencing -- that I concluded what I knew what it meant, I would

1 indicate that to the prosecutor.

2 Q. In a memo? In a document? In a summary? How would that
3 be communicated?

4 A. Sitting and talking.

5 Q. Okay.

6 A. So I go through -- this is a very iterative process. I
7 don't -- I'm not in a position where I -- I mean, so with the
8 prosecution team, I work with them very closely. I have for years.
9 So sit -- I'm kind of, I guess, old school a little bit. I'm going
10 to have the dialogue.

11 And so if I -- you know, if I circled something, like
12 a -- you know, as we're going through the translation process -- and
13 I say process, because it's reviewed a couple different times -- but,
14 you know, did I, like, circle something or highlight it to draw my
15 attention to it? Sure.

16 But, you know, that -- that back and forth is -- I'm sitting
17 there, like, I'm having a dialogue with the prosecution.

18 Q. You're showing them, like, say -- you're showing them
19 financial documents that back up something that may be [REDACTED] or
20 you're showing them tickets or you're showing them visa applications
21 or you're showing them, you know, information that you recovered and
22 linking it back to potentially the content [REDACTED]

23 A. So I had my -- like a -- when I started going through

1 this, I -- it hurt my head. I'm going to -- not going to lie, right?
2 I needed to get my head around who was where when. And I put -- in
3 order to do so, I put a lot of material together. Visa applications,
4 I'm going to use as an example.

5 Q. Okay.

6 A. So I'm very visual. I would bring the visa application in
7 and pointed to it, so -- or, you know, if I discussed it with, say,
8 Mr. Ryan, I showed him the visa application and would review that
9 type of thing with him.

10 Q. So whatever supporting documents you had, plus the
11 transcript [REDACTED] plus your analytical work, your drawn
12 connections?

13 A. I -- yes.

14 Q. Okay.

15 A. What I -- I didn't sit and kind of write a pretty ----

16 Q. Understood.

17 A. ---- paper ----

18 Q. Understood.

19 A. ---- and go through all of these things and package it up
20 and leave it on -- leave it on Ed's desk or, you know, Mr. Ryan's
21 desk. I am -- you know, this discussion was, you know, very much a
22 back-and-forth. Not to say that, you know, he was telling me
23 anything specific, but I -- especially as I started going through

1 them, you know, reading the translations more, I might say, okay,
2 well, wait a minute, and kind of learn a little bit more about it,
3 right? The more you read those, the more you -- you start to
4 understand.

5 So it was very much a process. But I did not write, like, a
6 conclusionary report or some type of, like, analytical document like
7 that. That didn't happen.

8 Q. So you're taking the content [REDACTED] and you're
9 evaluating it in conjunction with the context of everything else
10 that's going on at that time?

11 A. I -- I had a big binder.

12 Q. Preserving evidence, yeah.

13 A. And people laugh at me because, I do. I have binders,
14 right? I have my big binder and there's all my stuff in it. So I'm
15 sitting there and I'm pulling documents out. And what we did
16 visually with some of that -- you know, some of the evidence we
17 showed, I'm trying to go through some of that, you know, with -- with
18 the prosecution to relay my -- you know, my initial thoughts at
19 least.

20 Does that evolve over time? Yes. But, again, with respect
21 to the process, I -- I sit in a conference room and kind of pull all
22 kinds of things out, and I have a -- you know, little kind of things
23 around me.

1 Q. Okay.

2 DC [MR. MONTROSS]: Judge, I think that's all I have for open
3 session. Thank you.

4 MJ [Col McCALL]: All right. Thank you, Mr. Montross.

5 All right. So it's just about when we were going to recess
6 anyways for lunch, so good timing, Mr. Montross.

7 Ms. Waltz, the same procedure that we used last session. So
8 during the hour-and-a-half break that we're going to have, please
9 don't discuss your testimony with anyone, to include counsel for any
10 of the parties.

11 WIT: Yes, sir.

12 **[The witness was warned, was temporarily excused, and withdrew from**
13 **the courtroom.]**

14 MJ [Col McCALL]: All right. Anything to take up before we
15 recess?

16 Apparently not.

17 All right. Commission's in recess until 1330.

18 **[The R.M.C. 803 session recessed at 1156, 16 April 2024.]**

19 **[The R.M.C. 803 session was called to order at 1332, 16 April 2024.]**

20 MJ [Col McCALL]: Commission is called to order.

21 Parties are present. The accused are absent.

22 Any administrative matters to take up before we call
23 Supervisory Intelligence Analyst Waltz back to the witness stand?

1 Apparently not.

2 If we can get the witness back in here.

3 **[The witness, SIA Kimberly Waltz, resumed the witness stand.]**

4 MJ [Col McCALL]: Welcome back, Ms. Waltz. I just remind you
5 you're still under oath.

6 WIT: Yes, sir.

7 MJ [Col McCALL]: Mr. Connell, over to you.

8 **CROSS-EXAMINATION**

9 **Questions by the Learned Defense Counsel [MR. CONNELL]:**

10 Q. Good afternoon, Ms. Waltz.

11 A. Good afternoon.

12 Q. You have seen me do this lots of times. You should have a
13 pretty good idea how it's going to work. I'm happy to show you any
14 document that you want to see. Normally I'll start with the document
15 and then ask questions about it, because that will make it easier for
16 to you orient yourself about it.

17 And if there's anything that is classified or that you need
18 classification guidance on, bring that to the judge's attention and
19 we'll take it up for you.

20 A. Understood.

21 Q. There might -- there will be a couple of weird things that
22 you might not have seen exactly before. One of them is that
23 sometimes I may say the word "redacted" because some of my questions

1 have been redacted by an OCA. I know that might be a little
2 confusing, but we'll find our way through it the best we can.

3 A. Okay.

4 Q. And then ----

5 ADC [MS. LACHELIER]: This is Suzanne
6 Lachelier -- sorry -- from the RHR. Oh, they switched it. All
7 right. They must have seen me standing up.

8 MJ [Col McCALL]: All right. Let us know if there's any other
9 technical difficulties. Thank you.

10 Go ahead, Mr. Connell.

11 Q. And the other, perhaps, oddball is that you've probably
12 seen me a million times ask how -- if I asked you a certain question,
13 could you not answer because of national security privilege because
14 we have this Protective Order #3 issue going on. I may sometimes
15 have to ask you, if I asked you a certain question, could you answer
16 it? Okay?

17 A. Okay.

18 Q. You may know the answer to that. You might not know the
19 answer to it, and we'll work through it.

20 A. Okay. Understood. Thank you.

21 Q. I don't see a water bottle up there. Do you have one?

22 A. I have water.

23 Q. Okay. It's behind there. Great. Okay. You have more

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1 than a bottle.

2 A. I have a lot of water.

3 Q. All right. Very good.

4 All right. So the first topic that we're going to cover is
5 the different organizations you've belonged to over the years
6 and -- involving the investigation.

7 So the first one I want to ask about is the Criminal
8 Investigations Division of the FBI. And you testified that when you
9 first joined the FBI, after going through training, you joined a unit
10 of the Criminal Investigations Division; is that right?

11 A. I joined the FBI. I had a -- I think I said I had a brief
12 stint in FOIA and then was assigned to the Criminal Division
13 Financial Crimes section, Healthcare Fraud Unit.

14 Q. Okay. Do I have the name right? Is it Criminal Division
15 or Criminal Investigation ----

16 A. CID, Criminal Investigative Division.

17 Q. Great.

18 And back then, when you first went to CID, what was the role
19 of intelligence analyst at that time?

20 A. So my title wasn't intelligence analyst to begin with
21 because -- so that evolved. There was -- it's been a number of
22 years.

23 So I was -- at first they called me a program analyst, then

1 they called me an intelligence operations specialist. So they -- I
2 point that out because I think on different documents there may be
3 different -- you know, different letters.

4 But in the Criminal Division, the Criminal Investigative
5 Division, the role of the intelligence analyst was fairly new, and I
6 was just assigned to work and assist with some of our major cases
7 and -- and whatever that meant.

8 So it involved -- at different times I was looking at -- may
9 have been looking through medical records as it relates to a
10 particular investigation. I assisted with a number of undercovers.
11 So it was -- it really fell into the category of whatever I was asked
12 to do.

13 Q. And you testified on direct examination that part of your
14 initial training involved discovery training from the Department of
15 Justice. What -- back then, in the -- in CID, what was the
16 relationship of your role to discovery?

17 A. I believe when I -- so that discovery training was not a
18 part of that initial training that I received. When I first came
19 into the Bureau, I actually didn't -- I didn't go to Quantico. I
20 reported to FBI Headquarters and they tried to figure out what to do
21 with me.

22 So -- but eventually I did receive discovery training, but
23 that was -- that was certainly after 9/11. That was not as a part of

1 my -- you know, any type of training that I received while I was in
2 CID.

3 Q. Okay. And why did you receive discovery training after
4 9/11?

5 A. There were -- there were -- if I recall correctly, there
6 was a couple different cases wherein the FBI had received some
7 specific direction with respect to discovery, so certain people at
8 headquarters were identified, whether -- I don't know what the
9 initial determination was, but I had at least some involvement with
10 potential cases that would go to court. So I was identified as
11 somebody that needed -- that should attend the training in person.

12 Q. And, in general terms, what was the training about? How
13 to produce discovery? How to find it in the first place? What was
14 the whole process or the electronics? What was it about?

15 A. That we need to disclose everything to the prosecutor, and
16 they ultimately make discoverability determinations, right? So
17 that's the -- that was the end result. We had to go through, you
18 know, understanding what the different categories of discovery were
19 and then, you know, do these basic -- sessions where, you know,
20 scenario would be presented, do you disclose this to the prosecutor
21 type of thing?

22 And, you know, that was pretty much -- I think it was
23 developed, at least initially, to essentially be a baseline. And

1 then over certain periods of times, you know, we've had refreshers
2 through, like, just like an online refresher.

3 Q. So just to make sure that I understand it, it wasn't
4 really about getting information from, say, an AUSA to a defense
5 attorney. It was really about getting information from the FBI to
6 the AUSA so they could make determinations?

7 A. Absolutely.

8 Q. Okay. And you testified that prior to 9/11, you were part
9 of the Healthcare Fraud Unit of CID; is that right?

10 A. Yes.

11 Q. Okay. And CID in general is a division of FBI that
12 focuses on what might be called traditional criminal matters?

13 A. Correct.

14 Q. Okay. And after 9/11, how long did you remain assigned to
15 CID formally?

16 A. I don't know.

17 Q. Okay. You testified on cross-examination that -- on
18 examination -- on direct examination, excuse me, that you -- for a
19 period you were TDY to the Counterterrorism Division. How is the
20 Counterterrorism Division different from CID?

21 A. I had to learn that. In the Counterterrorism Division, I
22 was introduced to a bunch of classified material that I -- there were
23 things that were classified, and I had to, you know, learn

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1 different -- anybody in the FBI has Top Secret clearance. It's a
2 condition of employment. But I had to actually use it and start to
3 understand it, because certain cases in and of themselves are
4 classified. And that was -- that was fairly new to me.

5 But ultimately what I have started to figure out was while
6 things may be classified, generally speaking, the work is very
7 similar. You may just -- the -- we may get records a different way,
8 maybe not a subpoena. But -- so I guess it -- my initial thoughts
9 would be that, you know, that classification of, like, certain cases.

10 Q. All right. And at the Healthcare Fraud Unit prior to
11 9/11, is that primarily financial crimes?

12 A. It was in the financial crimes section ----

13 Q. Okay.

14 A. ---- of the FBI.

15 Q. And it's like Medicare fraud, that kind of thing?

16 A. Medicare, Medicaid, private pay.

17 Q. And all of those are people claiming money that they
18 aren't -- from the government that they aren't entitled to; is that
19 right?

20 A. There was some type of fraud committed, right? And
21 I say -- and the distinction I'm making is the government, right,
22 there could be private pay matters as well, so not necessarily just
23 the government.

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1 Q. I see. And sometimes healthcare fraud might involve
2 forged documents, such as medical bills or statements?

3 A. They could.

4 Q. It could involve inaccurate or misleading financial
5 documents or bank statements?

6 A. They could.

7 Q. And in prosecuting healthcare fraud, it's important to
8 identify business records, right?

9 A. Yes.

10 Q. And the actual person who maintains the business records
11 for certification purposes; is that right?

12 A. I would -- generally speaking, I would agree with that.
13 However, I never was in a situation where I was certifying records
14 for a case that was going to trial. It's just -- I just didn't do
15 that.

16 Q. Now, do I have it right that after 9/11, you were assigned
17 to a thing called the Financial Review Group; is that right?

18 A. That was one of the -- that was the early term, yes.

19 Q. Okay. And what was the Financial Review Group?

20 A. It was -- there was -- my section chief at the time from
21 the financial crimes section had been tapped to lead this Financial
22 Review Group to essentially take people who had been in the criminal
23 division who had certain -- may have certain expertise in a

1 particular area of financial investigations and apply that knowledge
2 to terrorism cases.

3 Q. And who was that section chief?

4 A. Dennis Lormel.

5 Q. Who else was part of FRG in those -- when it was FRG?

6 A. There were a lot of people. Excuse me. Some people from
7 headquarters, but there were also people that were sent on temporary
8 assignment, different rotations. I couldn't even -- I -- I don't
9 know how many people and -- I don't know.

10 Q. All right. Was -- was Special Agent Drucker part of it at
11 that time?

12 A. At what time?

13 Q. At the time that the organization that you worked with was
14 known as the Financial Review Group?

15 A. We -- he was essentially assigned to work with us. Like,
16 we worked in tandem. And I say kind of together because the
17 Financial Review Group had been tasked to do things other than -- it
18 wasn't just PENTTBOM. So it wasn't just the attacks of 9/11. There
19 were other -- there were several different efforts that were
20 happening.

21 So Adam, Adam Drucker was basically like a liaison. I don't
22 know the best way to categorize it. But he did sit with us in a
23 different area on occasion.

1 Q. And when you say he was liaison, I mean, I understand that
2 you mean that loosely. But with whom was he liaising? Who was the
3 other end of the liaison?

4 A. So you have the PENTTBOM team and the Financial Review
5 Group, so we needed to coordinate and Adam helped bridge that gap.

6 Q. Got you. Okay. You testified on direct examination that
7 your first trip to the United Arab Emirates was as part of FRG; is
8 that right?

9 A. Yes, sir.

10 Q. And on that trip, FRG -- were you -- do I have it correct
11 that you were following up on leads unrelated to PENTTBOM on that
12 first trip?

13 A. On that trip, yes.

14 Q. Okay. As a -- and you testified on direct examination
15 that as an analyst working on financial matters you were expected to
16 have a broad scope of understanding; is that accurate?

17 A. That -- that's accurate.

18 Q. And you, in fact, mentioned that working on the financial
19 matters kind of transcended individual subjects. Does that seem
20 right?

21 A. Yes.

22 Q. You testified that your job was to try to learn the entire
23 PENTTBOM investigation so you could provide further analysis; is that

1 right?

2 A. Over time. I mean, that's not something that happened
3 immediately.

4 Q. And you became aware of other aspects of the 9/11
5 investigation you may not have worked on directly; is that right?

6 A. That's correct.

7 Q. You also testified that your role was, over time, at some
8 periods, was to review intelligence. Does that sound familiar?

9 A. Yes.

10 Q. And that might seem obvious with an intelligence analyst,
11 but what does that mean, to review intelligence?

12 A. If there was -- I mean, intelligence could be a lot of
13 things, essentially different pieces of information. Something might
14 be coming -- we may receive some type of information and -- I
15 can't -- I guess it's somewhat nebulous to -- but if you -- seeing
16 how it fits into a larger case, right? If there's something,
17 information received by the FBI, does it -- what does it -- how does
18 it fit into a bigger case, or does it fit in? Or is there more of a
19 strategic -- is there a strategic type of information? Because we
20 have strategic analysts, also.

21 So I don't have probably a good answer other than evaluating
22 different types of information and seeing what I could learn.

23 Q. How does reviewing intelligence, in the way that you meant

1 it on direct examination, differ from what you did, for example, in
2 the Criminal Investigations Division? Is it simply the
3 classification of the material, or is there some other aspect?

4 A. So perhaps the sources of information may have been
5 different. However, in -- throughout my career, I've really
6 been -- I've been a bit unusual in that I've always been on the
7 tactical side, meaning really on the kind of -- on the case-specific
8 side.

9 I -- I've never done, like, strategic papers or
10 disseminations of, like, you know, IRs or other types of reports. So
11 my work has typically been on the tactical side, which is more case
12 specific.

13 Q. Do you know Brian Antol?

14 A. Yes, sir.

15 Q. How is what -- your role different from, say, Brian
16 Antol's role?

17 A. Well, it depends on what point in our careers you're
18 talking about. Brian's career took a different path than mine,
19 so ----

20 Q. Let's narrow it to the time when both of you were working
21 on terrorism-related issues.

22 A. Again, eventually he moves to become a section -- he took
23 on different roles. He becomes a section chief. I didn't do that,

1 so I -- I know Brian. I know the -- some of the work that he did,
2 but it would -- it would have to be more specific. I'm sorry.

3 Q. Was he also on the tactical side?

4 A. At first, yes, um-hmm. And I say "at first." In my
5 opinion, I don't -- I couldn't tell you exactly when he changed roles
6 or how that occurred.

7 Q. Your testimony on direct was that you reviewed
8 intelligence from a variety of places. What did you mean by that?

9 A. When I was in healthcare fraud, I may have been looking
10 at, like, ambulance records, let's say. But ----

11 Q. That actually comes to my -- would you have considered
12 that intelligence when you were in healthcare fraud?

13 A. I didn't really use the word "intelligence" at the time.
14 I -- so I ----

15 Q. Probably not.

16 A. It's just not something I would have said. I was
17 just ----

18 Q. Okay. So let's move forward to after 9/11 ----

19 A. Um-hmm.

20 Q. ---- which is, I think, the context of Mr. Trivett's
21 question.

22 When you said that your role was to review intelligence from
23 a variety of places -- and we can say after 9/11 -- what did you mean

1 by "a variety of places"?

2 A. We get information from other agencies. [REDACTED]

3 [REDACTED] Some of the times it looks
4 different. We get -- we also got a lot of what I would say
5 traditional just criminal documents -- you know, documents that
6 didn't look any different as to what I saw pre-9/11. [REDACTED]

7 [REDACTED] Financial records look the same.

8 So I just had to kind of learn the different -- you know,
9 some of the -- again, [REDACTED] -- that was
10 somewhat new to me. And even, like, some of the other agency
11 material was new to me.

12 Q. Did FRG become TFOS?

13 A. It did.

14 Q. Okay. It sort of got renamed? What happened?

15 A. Became more formalized. Following -- in the aftermath of
16 9/11, you know, there's a lot of different things happening and
17 there -- so there was -- and at the same time, you know, the
18 Counterterrorism Division of the FBI was growing, reorg'ing, kind of
19 finding -- trying to pursue -- you know, kind of being able to, you
20 know, take on new people, what is -- how has the mission changed?

21 So I guess it became, like, a formalized section, and so
22 that is what caused the name change. And I -- like, I do know -- you
23 know, there were other people in the section that worked on different

1 things than I did, so -- but I would say it -- the transition from
2 a -- the Financial Review Group was probably more of like an ad hoc
3 thing post-9/11. And then the move to the term "TFOS" was probably
4 at the time where it became more formalized, as in on the org chart,
5 like, with dedicated people.

6 Q. And a section chief?

7 A. And a section chief.

8 Q. Right. Who was Mr. Lormel.

9 A. The initial one, yes.

10 Q. Okay. So when did that happen? When did TFOS become
11 formal -- well, we can -- I can help you out, then.

12 The -- we know that your trip to UAE took place as part of
13 FRG. When was your first trip to UAE?

14 A. That was in April of 2000 -- April of 2002.

15 Q. Okay. And I'll represent to you -- and I'll show you the
16 actual document later, but I'll represent to you that the first
17 document that we have that identifies you as a member of TFOS is from
18 April of 2002. Does the transition from FRG to TFOS
19 between -- sometime between April and October 2002 sound right to
20 you?

21 A. Honestly, I have no idea off the top of my head. If I had
22 documents in front of me, then perhaps that would help. But when
23 that organizational change happened, I don't know.

1 Q. Okay. Was Mr. Drucker part of TFOS?

2 A. Eventually, yes. He became -- like, he was eventually
3 assigned to TFOS.

4 Q. Okay. All right. And is it accurate to say that TFOS
5 maintained a database of financial information about terrorist
6 financing that was larger than 9/11?

7 A. Yes. I'm -- there was -- I know that they -- as
8 of -- there were instances where if financial documents were being
9 collected on a certain case, I know that they were scanned in at some
10 point in time to a separate database. But that doesn't -- I mean,
11 they were still, you know, entered in as either evidence or 1As or
12 whatever in whatever case that they were collected from. This was, I
13 think, more of an organizational database versus a -- something
14 separate.

15 Q. So, you know, if a document came in and it was marked as a
16 1A, it would still go into ACS probably at the time, even if it was
17 also in the larger, more strategic database?

18 A. That's how -- being entered into ACS is how it would get
19 the 1A number. So, yes, it would have to be entered, and then -- you
20 know, then it could be scanned into someplace else.

21 Q. Okay. And that -- did that TFOS database have a name?

22 A. I think it was, like, RAID database. I can't recall what
23 "RAID" stands for, so ----

1 Q. And that RAID database allowed the FBI to share
2 information with other agencies, [REDACTED]; is that fair to say?

3 A. I didn't work with the RAID database, so I really couldn't
4 tell you the real -- like, what the capabilities are. It's not
5 something ----

6 [REDACTED]
7 [REDACTED]

8 [END OF PAGE]

1 **[The Military Commission resumed at 1400, 16 April 2024.]**

2 LDC [MR. CONNELL]: The court's indulgence?

3 MJ [Col McCALL]: Sure.

4 **[Counsel conferred.]**

5 LDC [MR. CONNELL]: Your Honor, I don't know when the red
6 light was activated from the public point of view. Some of the last
7 several questions the government has invoked classified information
8 privilege over, not national security privilege.

9 And three questions ago, the question -- it has not -- it
10 did not invoke classified information privilege over. So I don't
11 know where we stopped.

12 MJ [Col McCALL]: All right. And I don't know that it's clear
13 to me either as far as -- if you just want to re-ask the question,
14 that's fine.

15 LDC [MR. CONNELL]: Okay. All right. So this one is the
16 question that is unclassified and the answer is unclassified.

17 MJ [Col McCALL]: Okay.

18 LDC [MR. CONNELL]: Okay. So I'm sorry that I have to repeat
19 it.

20 **CROSS-EXAMINATION CONTINUED**

21 **Questions by the Learned Defense Counsel [MR. CONNELL]:**

22 Q. The TFOS database, which might have been called the RAID
23 database, allowed the FBI to share information with other agencies

1 [REDACTED] is that correct?

2 A. I -- I -- I don't know. I didn't really work with the
3 RAID database. I ----

4 Q. So FBI detailed agents to work -- [REDACTED] to work on
5 financial matters, terrorist financing matters as well; is that
6 right?

7 A. Yes. I'm sorry. I'm hesitant on the classification.

8 Q. I understand. We're all just finding our way here,
9 Ms. Waltz.

10 A. All right. Okay. As long as ----

11 Q. It's all good.

12 A. Sorry.

13 Q. It's all good. The -- and at one point, one of those
14 agents was Special Agent Drucker, right?

15 A. I don't believe Adam -- Adam had left TFOS.

16 Q. Before his detailing?

17 A. Before his detailing.

18 Q. Okay. You testified on direct examination that you were
19 physically at HBI **[sic]** Headquarters from prior to 9/11 until 2004.
20 Does that sound familiar?

21 A. Yeah -- yes, at some point in 2004 I moved.

22 Q. And you testified that in 2004, you were still assigned to
23 FBI Headquarters, but your physical location changed; is that right?

1 A. Yes.

2 Q. Okay. Could you explain what you meant by that?

3 A. [REDACTED]

4 Q. [REDACTED]

5 A. Yes.

6 Q. Okay. And do you know when in 2004 that was?

7 A. The latter half of 2004.

8 Q. Okay. So for my next questions, I'd like to address the
9 time period when you were not just organizationally, but physically
10 assigned to FBI Headquarters, the period from 2000 -- late 2001,
11 let's say, [REDACTED]

12 A. Understood.

13 Q. Okay. And then you were -- you were physically located in
14 the TFOS office?

15 A. I was eventually assigned to TFOS, the office. I mean,
16 yeah, I had a -- I did have office space. There was different units
17 of TFOS, so I sat in an office space that belonged to TFOS.

18 Q. Okay. What was your unit called?

19 A. I'm -- it was renamed a couple different times. I'm not
20 really sure. I'm sorry.

21 Q. That's okay. Do you remember any of the names?

22 A. At one point I think it was -- I'm not sure. I'm sorry.
23 I would have to look at documents that I wrote. Typically the units

1 were on there.

2 Q. Yeah. The TFOS office included a Secure Compartmented
3 Information Facility or SCIF; is that right?

4 A. There -- there were parts of the unit that was in a SCIF,
5 yes -- or, sorry, parts of the section that were in a SCIF, yes.

6 Q. Okay. And you testified that there was a terminal with
7 direct access to CIA cables; is that right?

8 A. At one point, yes.

9 Q. And I just -- I know that you know this. I just
10 want -- I'm talking about the period between 2002 and 2004, [REDACTED]

11 [REDACTED] So when you say at one point, you
12 mean at one point during the 2002 to 2004 time period?

13 A. Yes.

14 Q. And as an analyst in TFOS with a Top Secret clearance, you
15 had access to the terminal with access to CIA reporting?

16 A. I didn't -- I mean, I know -- I think -- like, I don't
17 think I -- I didn't have a user ID or a password to that. At some
18 point I know I was there, Adam used it.

19 I'm not sure -- the specific terminal that I'm thinking of,
20 I didn't have direct access to that, no.

21 Q. And were there persons -- were there people other than
22 Special Agent Drucker who had access to the terminal?

23 A. I'm not -- I'm not sure. I don't know.

1 Q. Okay. I'd like to show you what is in -- marked as
2 MEA-FBI-00024351, found in the record at AE 628IIIII Attachment F.

3 LDC [MR. CONNELL]: And at this point, Your Honor, we
4 can -- this will be the first time in my -- that I'm showing really
5 anything in my examination, but this is a Secret document, so it is
6 not appropriate for display to the gallery. And I think that the
7 back table is still in the same down position that it was.

8 MJ [Col McCALL]: All right. I see some nods from the back
9 table. It looks like the monitors are still protected.

10 Go ahead. Mr. Trivett?

11 MTC [MR. TRIVETT]: If I can have a second to consult with
12 counsel?

13 MJ [Col McCALL]: Sure.

14 **[Counsel conferred.]**

15 LDC [MR. CONNELL]: So, Your Honor, my understanding is that
16 the government has an objection to my use of the document camera.

17 MJ [Col McCALL]: Mr. Trivett?

18 MTC [MR. TRIVETT]: Yes, sir. So the document is marked
19 SECRET. I think the question he wants to have verified from the
20 witness is fine, but the concern is the display of Secret documents
21 in an open session.

22 I know we talked about this last time. We have no
23 opposition to him showing the witness the document and asking the

1 question. It's the presentment of a Secret document in court that's
2 not portion marked in any way that we're concerned about, and we want
3 to continue to assert objections over. Although, we agree that this
4 had gotten sort of off of where the guidance had been. We're trying
5 to get it back to where the guidance is for Secret documents.

6 MJ [Col McCALL]: I mean, so what is your concern as far
7 as -- I mean, everyone in here has an appropriate clearance, and it's
8 not being displayed to the gallery or the public.

9 MTC [MR. TRIVETT]: Right. But we're being asked questions
10 about a SECRET//NOFORN document. Now, only one question, is my
11 understanding.

12 MJ [Col McCALL]: Right.

13 MTC [MR. TRIVETT]: And that I know is not a classified fact.
14 I have no idea what else might be classified in that document, and
15 that's the concern, that if we present it and then questions are
16 asked about a Secret document that's not portion marked in open
17 court, we can't adequately assert just plain old classified
18 information privilege, let alone national security privilege.

19 I don't think there's going to be any national security
20 privilege assertions. It's an FBI document, but it is a Secret FBI
21 document that's not portion marked. And so we would object to it
22 being presented. But similar to a silent witness rule, we have no
23 problem if the witness is simply shown the document and asked the

1 question.

2 MJ [Col McCALL]: All right. Mr. Connell?

3 LDC [MR. CONNELL]: Sir, it sounds like there are two separate
4 problems there. One is, am I going to ask questions which call for a
5 classified answer? That is something that we've dealt with, like,
6 maybe 3,000 times in the course of these proceedings. I'm very
7 familiar with how to deal with that. So is counsel. We have things
8 in place to -- if I were to just lose my mind or make a mistake, we
9 have things that would deal with that.

10 That's a whole separate issue from a courtroom which is set
11 up for display of information to a witness with a security clearance.

12 And I understand we're going to cross a different bridge
13 when we get to Mr. Kohlmann, but a witness with security clearance,
14 we have people in the RHR who need to be able to follow along. We
15 have other counsel who need to be able to follow along. In this
16 situation, we don't even have defendants in the courtroom.

17 I don't understand why today is different, you know, day two
18 of the 50th hearing in this case is different from the first 49
19 hearings in the case where the appropriate mode of presentation was
20 to make sure that -- that the display is secure and to display
21 documents to counsel and to the witness.

22 I also have to say that I do not understand what guidance
23 counsel is referring to, and maybe he could give us a record cite,

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1 because I haven't heard any -- the guidance has always been to
2 display the document to the witness and to the parties and to the
3 military commission and to the RHR so that people with clearances
4 could follow along what's happening in the examination.

5 MJ [Col McCALL]: Yeah, and I guess I'm not sure either,
6 Mr. Trivett, as far as -- at least when I've reviewed the transcript,
7 a number of times in past sessions when I wasn't the judge, I know
8 this issue came up as -- I could read in the transcript where they
9 were adjusting the monitors to make sure that things couldn't be
10 displayed to the gallery, and -- yeah, so ----

11 MTC [MR. TRIVETT]: Yes, sir. So in 658, there was a specific
12 exception for classified documents for the "to," "pass," "from," and
13 "subject" line for the FBI/CIA coordination documents. But those
14 documents were all listed in advance. They're listed in footnote 17,
15 and they were actually reviewed.

16 And so in that context, we were comfortable that there
17 wasn't going to be any classified information if the questions were
18 limited to those things.

19 But if you can give me a second, I will get the specific
20 paragraph number that discusses the use of Secret documents in open
21 session.

22 MJ [Col McCALL]: All right. Let's do this. We're going to
23 go ahead and take a recess. I want the parties to confer. I want

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1 you to get me that cite. I'll have my staff come out and touch base
2 with you, and then I'm going to consider it. But, yeah, let me know
3 when we're ready to come back on the record.

4 Commission's in recess.

5 **[The R.M.C. 803 session recessed at 1414, 16 April 2024.]**

6 **[The R.M.C. 803 session was called to order at 1439, 16 April 2024.]**

7 MJ [Col McCALL]: Commission is called to order.

8 The parties are present. The accused are absent.

9 Supervisory Intelligence Analyst Waltz is not on the witness stand.

10 Where are we at? Mr. Connell or Mr. Trivett, either one.
11 Maybe not both.

12 MTC [MR. TRIVETT]: Sir, I'd just direct everyone's attention
13 to paragraphs 2 and 3 of AE 658. Understanding that the question
14 that Mr. Connell had showed me in advance is arguably not something
15 that falls within 2 or 3, it becomes very nuanced in any type of
16 reference after that, very well could be what I believe in violation
17 of 2 or 3. So that's where we believe we're at as far as the
18 paragraphs.

19 The issue of display to the rest of the court and not the
20 gallery, we would withdraw our objection.

21 MJ [Col McCALL]: All right.

22 MTC [MR. TRIVETT]: And to summarize, so he can ask the one
23 question that he wanted to of the witness. But if we get into more

1 detail about this classified document, we believe we're under
2 paragraphs 2 and 3 and that it would be more proper to be done in
3 closed.

4 MJ [Col McCALL]: All right. And it seems like -- you know,
5 I've discussed this with my CISO. I've reviewed these paragraphs as
6 well. I understand. So it seems like the parties also had discussed
7 during the break and everybody's on the same page?

8 Mr. Connell, yes.

9 LDC [MR. CONNELL]: I want to divide the issues, Your Honor.
10 The main issue that we took the break on was the display and I think
11 that's resolved.

12 MJ [Col McCALL]: Correct. And that's resolved.

13 LDC [MR. CONNELL]: Right. The -- the other issue is a
14 recurring -- I just want to put the -- since we're going to discuss
15 this, I just want to put the history of this.

16 We were trying to find a way to discuss these cables in open
17 court.

18 MJ [Col McCALL]: Right.

19 LDC [MR. CONNELL]: And so the collective agreement
20 and -- was, which I have now memorialized in the record, was that to,
21 from, pass, drafter, and a brief unclassified summary of the document
22 could be used. That's been done on many, many, many occasions.

23 MJ [Col McCALL]: Sure. Orient the witness.

1 LDC [MR. CONNELL]: Orient the witness. The -- over time, the
2 government has changed the 658 guidance to chip away at that
3 agreement, to take away pieces of it. And paragraphs -- the new
4 language in paragraphs 2 and 3 is just the latest example of that.
5 But that's been coming. I see it.

6 The -- so because -- based on the discussion of the
7 questions, I have bracketed a number of my questions to move to
8 closed session. I think it's just going to come up again and again,
9 and there's something of a judgment call.

10 But I do want to say that the last time that this issue came
11 up, I proposed that, well, why don't I just make a spreadsheet of to,
12 from, pass, drafter, and a brief summary of each document and submit
13 it to the government for classification review, and then we don't
14 have to argue about this every time. And so I did that.

15 I just wanted to -- so -- I mean, I feel that I have acted
16 in as much good faith as it is possible to muster in this system in
17 trying to address this -- this problem. We need some way to discuss
18 things that are unclassified with the witness that happen to be
19 memorialized in classified documents, and I'm doing my best. I'm
20 sure the government's doing their best, too, but the rules keep
21 changing under us.

22 MJ [Col McCALL]: All right. So I'm -- perhaps this isn't
23 something we can discuss in open. I'm interested in hearing your

1 argument on what is being chipped away at with the current guidance
2 with those paragraphs, and perhaps that's better in a closed -- when
3 we get into a closed session.

4 LDC [MR. CONNELL]: Yes, sir. But I can probably illustrate
5 in a way that doesn't reveal classified information. So let me take
6 it a shot ----

7 MJ [Col McCALL]: Go ahead.

8 LDC [MR. CONNELL]: ---- give it a shot and then we'll -- I
9 mean, with the witness, and we'll ----

10 MJ [Col McCALL]: Okay.

11 LDC [MR. CONNELL]: And then maybe it will need to be
12 explained a little bit more in closed, but we'll see what we can do
13 in open.

14 MJ [Col McCALL]: All right. Understood.

15 All right. Let's bring Ms. Waltz back in here.

16 **[The witness, SIA Kimberly Waltz, resumed the witness stand.]**

17 MJ [Col McCALL]: All right. Ms. Waltz, welcome back.

18 Mr. Connell, your witness.

19 LDC [MR. CONNELL]: All right.

20 Q. Ma'am, when we broke off, I was going to show you
21 MEA-FBI-00024351, contained in the record at AE 628IIIII (AAA)
22 Attachment F.

23 LDC [MR. CONNELL]: Your Honor, may I have access to the

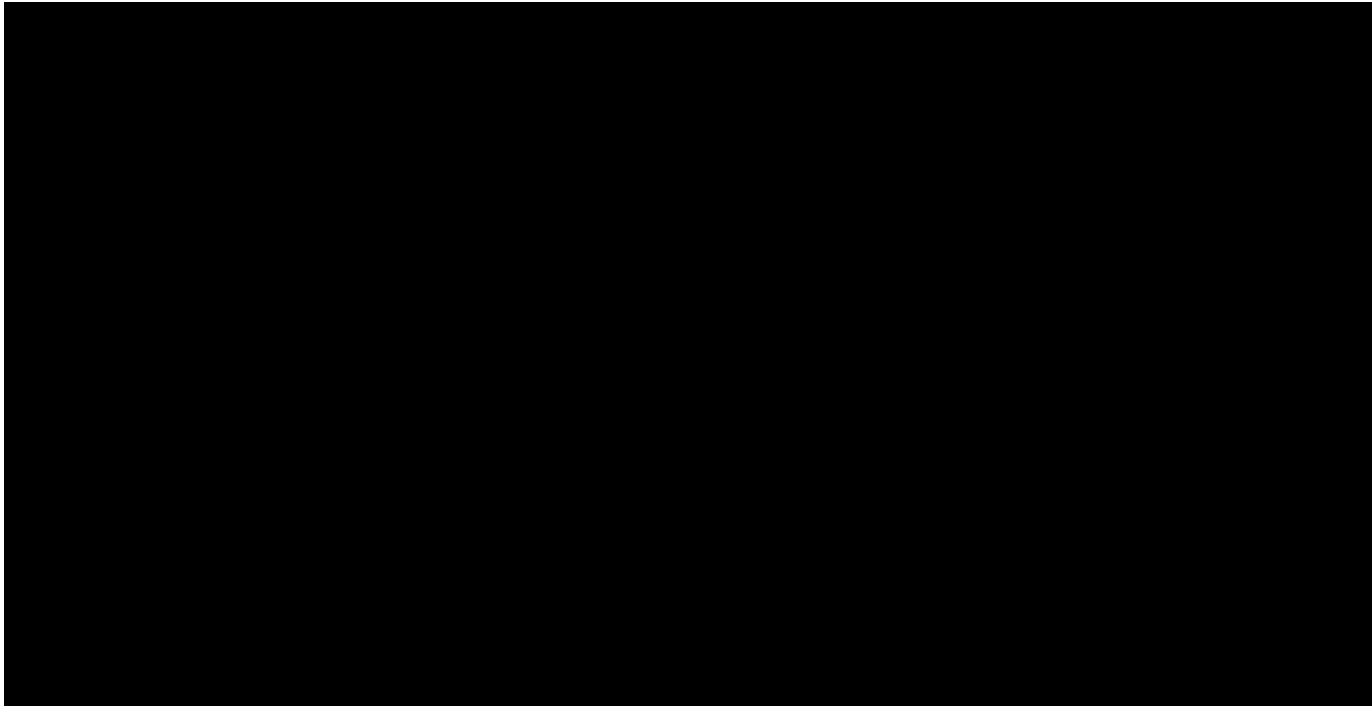
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1 document camera? This is not for display to the gallery.

2 MJ [Col McCALL]: Go ahead. And, again, this will not be
3 displayed to the gallery.

4 LDC [MR. CONNELL]: It sometimes takes a second to come up.
5 There we go.

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16 LDC [MR. CONNELL]: Your Honor, I'm removing the document from
17 the document camera.

18 Q. Now, you were telling us about the TFOS offices a moment
19 ago. Let me ask, how would that cable make its way to you?

20 A. It could be printed. Somebody could have brought
21 it -- brought it to me if they received it. Depending on the time
22 frame, it was extremely difficult for us to get cables if they
23 had -- even if they had our names on it, because it's not like there

1 was a little in-box or anything that would route it to us.

2 So if something -- if I was on the attention line of
3 anything, to be quite honest, like, it would have to be oftentimes
4 routed to me in hard copy.

5 At some point in 2004, the FBI developed a TS enclave, so at
6 that point we could get e-mails. So I guess if somebody was -- I
7 could have gotten it that way. So I don't know the time frame of
8 that, which is why I presented both different scenarios.

9 Q. I understand. I'd like to tell you the time frame, but
10 I'm instructed that I'm not allowed to tell you the time frame.

11 So the -- you mentioned that sometime in 2004, FBI developed
12 a TS network. Within that TS network, did you have direct access to
13 CIA cable traffic?

14 A. Eventually, yes.

15 Q. But you still had to go through a higher FBI review to
16 actually send the cables to the CIA; is that right?

17 A. It was not an easy process.

18 Q. The -- you used the phrase on direct examination
19 "disseminated cable traffic." What did you mean by disseminated
20 cable traffic?

21 A. Cables that were -- I'm not sure of the exact context.
22 What are you -- can you be more specific to the context of -- of your
23 question?

1 Q. Sure. Of course.

2 The CIA sent cable traffic out to different sets of members
3 of the intelligence community; is that right?

4 A. Yes.

5 Q. And some of it, for example, they could send direct just
6 to the FBI?

7 A. Yes.

8 Q. They could send it to essentially the entire intelligence
9 community if they wanted?

10 A. Yes.

11 Q. And when you say that part of your responsibilities were
12 to review disseminated cable traffic, there were -- we've sometimes
13 heard them called intels or there was intelligence reporting that
14 went out from the CIA to the wider IC, including the FBI; is that
15 right?

16 A. Yes.

17 Q. Okay. And is that what you mean when you say -- use the
18 phrase "disseminated cable traffic"?

19 A. Yes.

20 Q. Okay. Now, TFOS, while were you there, they could send
21 intelligence requirements for detainee interrogation; is that right?

22 A. Yes.

23 LDC [MR. CONNELL]: May I consult with the government for a

1 moment?

2 MJ [Col McCALL]: You may.

3 **[Counsel conferred.]**

4 Q. So, ma'am, I'm going to show you a document, which is
5 [REDACTED] found in the record at AE 628MMMM (AAA)
6 Attachment D. I'm going to put it on the display camera with the
7 permission of the military commission, but don't say anything about
8 it yet. Okay?

9 A. Okay.

10 Q. Okay. Ma'am, this is a cable; is that right? And yes or
11 no.

12 MJ [Col McCALL]: Mr. Connell, if you want to maybe crosstalk
13 with Mr. Trivett?

14 LDC [MR. CONNELL]: I think we're doing this ----

15 MJ [Col McCALL]: I believe he has a question.

16 **[Counsel conferred.]**

17 Q. Ma'am, this is a cable from the FBI to the CIA; is that
18 right?

19 A. Yes, it is.

20 Q. Okay. And you told us a moment ago that it was not easy
21 to send cables from the FBI to the CIA. Is that because the agent or
22 analyst had to prepare a document in a certain form, send it up
23 through a review to a certain office that would send it over to the

1 CIA?

2 A. Yes.

3 Q. The -- this document is dated 13 November 2003; is that
4 right?

5 A. I'm sorry. Could you repeat that?

6 Q. This document is dated 13 November 2003?

7 A. Yes, it is.

8 Q. And I'll show you -- well, no. Let me ask you instead:
9 Were you the drafter?

10 A. I would have to look at the bottom ----

11 Q. Sure.

12 A. ---- cable.

13 Q. Can I show you the bottom?

14 A. Yes, please.

15 MJ [Col McCALL]: Mr. Trivett?

16 MTC [MR. TRIVETT]: Could I have a second to consult?

17 MJ [Col McCALL]: Sure.

18 **[Counsel conferred.]**

19 LDC [MR. CONNELL]: Sir, let's give them just a moment.

20 MJ [Col McCALL]: That's fine. "Them" being the -- just the
21 government? All right.

22 LDC [MR. CONNELL]: Are we good?

23 Okay.

1 Q. Ma'am, the question is: Are -- were you the drafter?

2 A. I don't specifically recall writing this. It has -- I
3 mean, it has my name to provide results to. I don't recall. I'm
4 sorry.

5 Q. Okay. How -- how would you know if you were the drafter?

6 A. This ----

7 Q. Don't read from the document, please. I mean, you can
8 read it, but just don't read it out loud.

9 A. Understood.

10 Q. Yeah.

11 A. There would be another part ----

12 Q. Okay.

13 A. ---- to it ----

14 Q. All right.

15 A. ---- to identify.

16 Q. So I'll show you the whole thing, and you can -- maybe you
17 can help out. So I'm going to start at the top. And everything
18 above what I'm showing you is redacted. So you tell me when you have
19 had an opportunity to review that, and I'll switch to the second
20 page.

21 **[Pause.]**

22 A. Okay. I've done the first page.

23 Q. Do you want me to switch to the second page?

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1 A. Yes.

2 I don't know for sure that I wrote this.

3 Q. Okay.

4 A. The formatting is such that I can't sit here and say for
5 sure that I wrote it.

6 Q. Okay. And I noticed that there are substantial redactions
7 on this document; is that right?

8 A. There are some redactions, yes.

9 Q. Okay. Are you -- is the pushback against the word
10 "substantial"?

11 A. I would just say that there were some redactions.

12 Q. Okay. Is it possible that those redactions include the
13 information about whether you were the drafter?

14 A. I -- I don't know.

15 Q. Okay. You asked just a minute -- when you asked to review
16 the document, is that because you hoped that there was a portion of
17 that document that would indicate whether you were the drafter?

18 A. I -- I wanted to see if there was a -- something about
19 "by" or "drafted by" on it. There was not.

20 Q. And the answer is you don't know, because there's
21 redactions?

22 A. I actually think the reason I don't know is because
23 it -- I don't think it's the FBI side of the cable. So as in

1 the -- this seems to be -- the formatting, at least, the way I was
2 looking at it, is the -- how it was probably transmitted over to the
3 other agency.

4 Q. What was the -- what would be the FBI side of the cable?

5 A. It would just be in, like, a teletype version. It just
6 looks -- it would look different.

7 Q. And would that FBI side of the cable have the drafter on
8 it?

9 A. It should.

10 Q. This document was sent during the time you were at TFOS,
11 right? 13 November 2003?

12 A. Yes.

13 Q. I'd like to show you one more line on it.

14 LDC [MR. CONNELL]: If I could have access to the document
15 camera?

16 MJ [Col McCALL]: You can.

17 And if you can actually turn off the document camera. So if
18 we can just make sure that the monitors are not viewable into the
19 gallery. Apparently ----

20 LDC [MR. CONNELL]: May I have ----

21 MJ [Col McCALL]: Sure.

22 **[Counsel conferred.]**

23 MJ [Col McCALL]: Mr. Dykstra, if you'd do me a favor and step

1 out of the courtroom, and just maybe you can step into the gallery,
2 maybe you and Mr. Connell, and just confirm.

3 **[Counsel conferred.]**

4 LDC [MR. CONNELL]: Your Honor, the answer is not clear.

5 MJ [Col McCALL]: Okay.

6 LDC [MR. CONNELL]: May we have a moment to work it out?

7 MJ [Col McCALL]: Yeah. No, take your time.

8 **[Counsel conferred.]**

9 LDC [MR. CONNELL]: It's our test, Your Honor.

10 **[Counsel conferred.]**

11 LDC [MR. CONNELL]: Your Honor, the question under discussion
12 is that perhaps I've written too large on this. I have -- I'm going
13 to show it to counsel -- just a Trial Conduct Order.

14 MJ [Col McCALL]: Perfect.

15 LDC [MR. CONNELL]: And the quiz for Mr. Dykstra is: Can he
16 tell the AE number?

17 **[Counsel conferred.]**

18 MJ [Col McCALL]: All right. Counsel have come back in the
19 courtroom.

20 So I assume that the issue that we're having with this is
21 the fact that in the last session we got these new monitors on
22 counsel table that are larger than the old ones, so I'm assuming they
23 are easier to see from the gallery. I don't believe we've had this

1 issue before. It's why I couldn't see Mr. al Hawsawi the other day
2 when he was sitting behind the monitor.

3 But -- so I think going -- first, is it resolved?

4 LDC [MR. CONNELL]: Yes, sir.

5 MJ [Col McCALL]: Okay. So it's not viewable in the gallery?

6 DMTC [MR. DYKSTRA]: I will say that it's not -- certainly not
7 decipherable. You can kind of tell that there is a document in
8 there.

9 MJ [Col McCALL]: Okay.

10 DMTC [MR. DYKSTRA]: I would -- I'm going to speak with IT,
11 because we probably need to get some better privacy screens just
12 generally.

13 But absolutely, for all parties, please do not remove the
14 privacy screens on it. Whether or not you believe you're in the
15 front of the courtroom or the backwards, you can see -- you can see
16 things, so...

17 MJ [Col McCALL]: Okay.

18 DMTC [MR. DYKSTRA]: And obviously, this -- we've been dealing
19 with writing and so forth. I would encourage not to zoom in on any
20 particular paragraphs at this point in time. And if you're going to
21 show photos, that's a little bit of a different thing than showing
22 writing at this point.

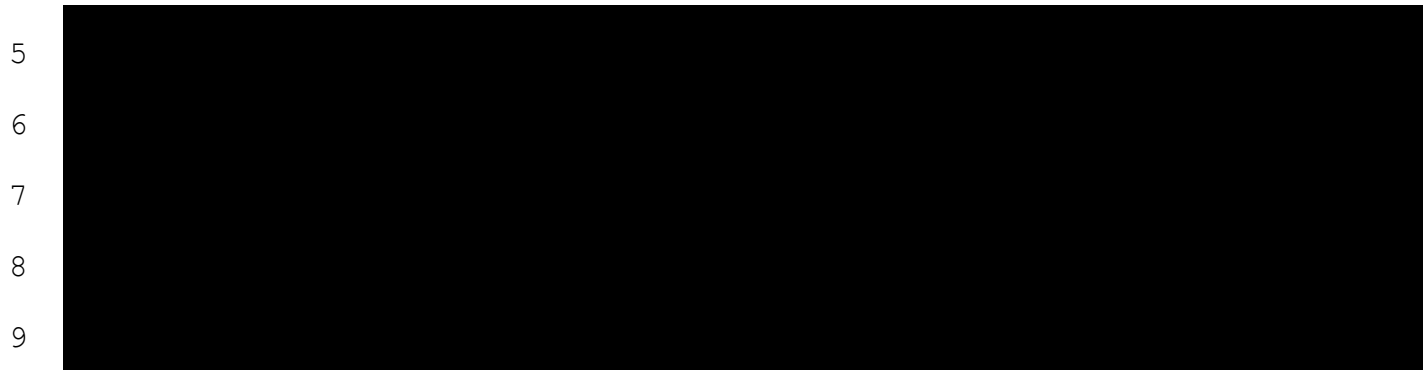
23 MJ [Col McCALL]: Sure. All right. Thank you, Mr. Dykstra.

1 Mr. Connell, go ahead.

2 LDC [MR. CONNELL]: Thank you, sir.

3 **CROSS-EXAMINATION CONTINUED**

4 **Questions by the Learned Defense Counsel [MR. CONNELL]:**



10 Q. Yeah, I ----

11 MJ [Col McCALL]: Okay.

12 LDC [MR. CONNELL]: Mr. Dykstra?

13 A. Okay. It seems to be back.

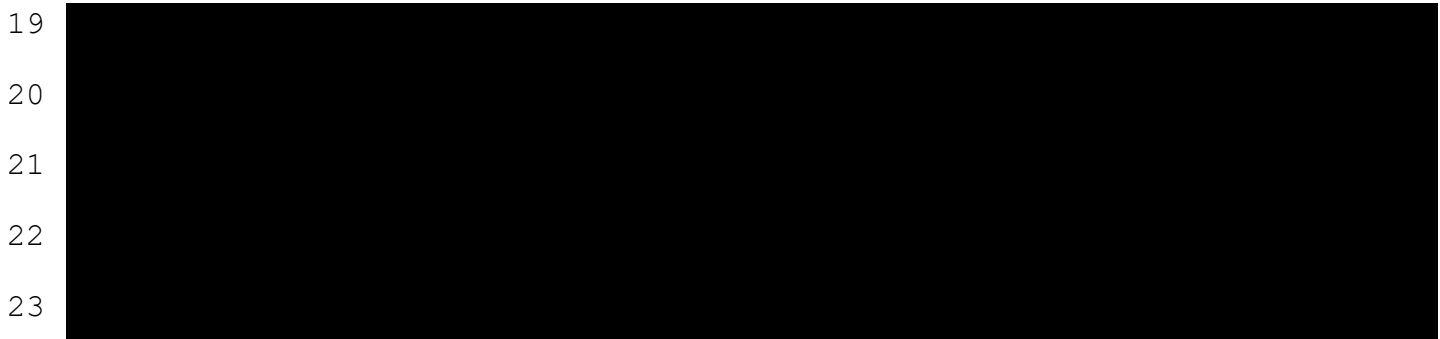
14 Q. Okay. Very good.

15 A. I ----

16 Q. He's often blamed for everything, so...

17 A. True.

18 Q. All right.



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[REDACTED]

Did TFOS ever send intelligence requirements for the interrogation of Mr. al Baluchi specifically?

A. TFOS was a section with a lot of people, so I -- I don't know if -- I wouldn't be able to speak to what other members of the section did.

Q. Okay. Did you ever send questions, intel requirements for the interrogation of Mr. al Baluchi in particular?

A. At this moment, I don't recall. I'm not ----

Q. Okay. I'd like to show you [REDACTED] found in the record at AE 628MMMMM (AAA) Attachment D.

LDC [MR. CONNELL]: May I have access to the document camera, please?

MJ [Col McCALL]: Go ahead.

And, again, this won't be displayed to the gallery.

LDC [MR. CONNELL]: Correct.

Q. Ma'am, this is a cable from the FBI to the CIA dated 13 February 2004; is that right?

A. Yes, it is.

Q. Okay. And once again, in a header line, it includes

[REDACTED] Do you see that?

A. I do see that, yes.

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1 Q. Okay. Were you the drafter of this document?

2 A. I would need to review the document in its entirety. I'm
3 reading it.

4 Q. I can also help you and skip ahead if you'd like.

5 A. Okay.

6 Q. Don't read from the document, but I'd like to show you
7 another part of the document. Okay?

8 A. Understood.

9 Q. Have you had a chance to review the bottom line?

10 A. I have.

11 Q. Okay. So I'll ask again: Did you yourself ever send
12 intelligence requirements for interrogation of Mr. al Baluchi in
13 particular?

14 A. Yes.

15 LDC [MR. CONNELL]: If I could -- I'm not quite done. If I
16 could still have access to the document camera?

17 MJ [Col McCALL]: That's fine.

18 Q. Now, you mentioned the FBI side and the CIA side of a
19 cable. Is this the FBI side?

20 A. Can I -- I'm ----

21 Q. Yeah, of course. You tell me when you want me to move it
22 and I'll ----

23 A. Can you -- can you move it up ----

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1 Q. Yes.

2 A. ---- so I can see the bottom of this page?

3 It appears to be the FBI version of the cable.

4 Q. Okay. And do you see the line marked U//FOUO and then it
5 has the word "cite"?

6 A. Yes.

7 Q. What goes in that -- after the word "cite"? I don't mean
8 what does the redaction say. I mean what sort of information goes
9 after the word "cite"?

10 A. Either who or where you would want that cable to go. Or
11 actually -- sorry, that would be a different line. I apologize.

12 Q. Okay.

13 A. The cite should be any type of -- like any type of
14 reference.

15 Q. I see. So like a reference line?

16 A. Yes.

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22 **[The security classification button was pushed in the courtroom which**
23 **caused the video feed to terminate at 1511, 16 April 2024.]**

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[END OF PAGE]

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1 **[The Military Commission resumed at 1513, 16 April 2024.]**

2 MJ [Col McCALL]: All right. Go ahead, Mr. Connell.

3 LDC [MR. CONNELL]: Thank you. I'm going to back up one
4 question.

5 Q. So the pass line is the place where you would put to whom
6 you want the cable to go; is that right?

7 A. Yes.

8 Q. Okay. And you see that there is a reference to CTC/UBL,
9 which is the Usama bin Laden unit of the Counterterrorism Center of
10 the CIA; is that right?

11 A. Yes.

12 Q. And a reference to [REDACTED] Do you see that?

13 A. I don't have any document here right now, but I did see
14 it.

15 Q. That's right. Let's fix that.

16 MJ [Col McCALL]: It's back up.

17 A. It's back.

18 Q. All right. So there's a redaction, and the substitution
19 is [REDACTED] in the pass line. Do you see that?

20 A. I do.

21 Q. Okay. And how do you know who to put in the pass line?

22 A. I don't -- I don't recall how I -- how I was -- learned.
23 I -- I don't recall. I'm sorry.

1 Q. The first time that you ever drafted one of these, did
2 someone show you how?

3 A. I -- I don't recall the first time -- the first cable I
4 wrote. I would have to believe that somebody showed me how to do it,
5 but I don't have specific -- any specific recollection.

6 Q. Okay. Is there an instruction manual or something?

7 A. Not that I recall.

8 Q. Okay. So how to craft these is passed down from person to
9 person within FBI?

10 A. My experience -- I just -- I don't recall how I learned
11 how to write, like, a cable or a teletype.

12 Q. I'll represent to you that Interrogator SG1 shows up on
13 dozens and dozens of cables. Can you shed any light on how
14 [REDACTED] came to be on so many cables from FBI to CIA?

15 A. I don't think I can.

16 Q. Would I need to ask [REDACTED]

17 A. I -- I don't know how you would gain that information.

18 I -- I -- I don't know.

19 Q. Who knows the answer?

20 MTC [MR. TRIVETT]: Objection. Calls for speculation.

21 MJ [Col McCALL]: Objection sustained.

22 LDC [MR. CONNELL]: I'll rephrase, Your Honor.

23 Q. If the drafter of cables doesn't know how [REDACTED]

1 got on the cable, is there another person that we could ask?

2 A. I didn't write [REDACTED]

3 Q. Right. You wrote a name, or perhaps a pseudonym, but you
4 wrote a name, right?

5 A. There was -- there's something else under that redaction.

6 LDC [MR. CONNELL]: Your Honor, I had hoped to wait until the
7 break to do this, but it seems an appropriate time. May I ask the
8 government to advise Ms. Waltz of the identity of [REDACTED]

9 MJ [Col McCALL]: Go ahead.

10 Ms. Waltz, you can go ahead and step off the witness stand.

11 **[Counsel conferred with the witness.]**

12 MJ [Col McCALL]: All right. Go ahead, Mr. Connell.

13 Q. Ms. Waltz, have you now been advised to the identity of
14 [REDACTED]?

15 A. Yes, I have.

16 Q. Okay. And how did you know how to write -- to put that
17 person's name in the pass line?

18 A. I -- I would have been told to put that person's name
19 there.

20 Q. Okay. And who would have told you?

21 A. Specifically, I can't recall.

22 Q. Who gave you advice about how to write cables?

23 A. I -- I -- I'm trying to think back on a very busy time.

1 And I -- I just don't recall how I learned to write a cable. I
2 obviously had to have learned somehow, but I don't have specific
3 recollection of how -- of learning how to write the cable.

4 Q. Do you, having been told the true -- or a true -- an
5 identity of [REDACTED], do you now know who that person is?

6 A. I -- I was given a name, yes.

7 Q. Is that a name that you know?

8 A. It's a name I'm familiar with, yes.

9 Q. Okay. And what was the relationship -- I'm just going to
10 call that person [REDACTED] which is the way that we had to do
11 our UFIs.

12 What was the relationship of [REDACTED] to the FBI?

13 A. I -- [REDACTED]

14 Q. Okay. Did they have some other relationship to the FBI?

15 A. I -- I don't know.

16 Q. Okay. When did you first come to know [REDACTED]

17 A. With respect to this individual, I wouldn't -- I'm
18 familiar with the name. I wouldn't say that I know the person,
19 like -- I -- I'm really -- I am trying to -- I'm trying to think
20 about it, and I really don't know. I cannot recall at this time.

21 Q. All right. I'd like to move forward now to the time after
22 the FBI developed the TS system that you told us about.

23 A. Okay.

1 Q. During that time, could you access CIA reporting through
2 searchable databases?

3 A. I was able to, yes.

4 Q. And so when the CIA sent cables responsive to FBI
5 intelligence requirements, you could access them?

6 A. We could access CIA cables.

7 Q. And ----

8 A. Whether or not that was responsive to CI -- or an FBI
9 question or an FBI cable requirement, I -- I don't -- it was very,
10 very difficult to put those together. I wouldn't have been able to
11 do that.

12 Q. All right. So I think you answered a different question,
13 so let me try again.

14 When cables came from the CIA which were responsive to FBI
15 intel requirements, whether you sent that intel requirement or not,
16 you could access those cables?

17 A. Possibly.

18 Q. What would stop you?

19 A. There's all kinds of -- I don't -- I have access to
20 certain pieces of information. I don't know if I'm seeing everything
21 or there's certain things that are directed in a certain way. I -- I
22 wouldn't know what I'm not seeing.

23 Q. Right. The -- but if the CIA distributed a cable to the

1 FBI responsive to FBI intelligence requirements, you could access
2 that?

3 A. Possibly.

4 Q. It's the "possibly" that I'm hanging up on. What is the
5 obstacle?

6 You're talking about things that you don't know, but I'm
7 talking about things that you do know. There's a -- please accept
8 for the purposes of this question that the CIA has sent a cable which
9 is responsive to an FBI intelligence requirement through disseminated
10 cable traffic. Could you access it?

11 A. Disseminated cable traffic, yes.

12 Q. And the -- it was, in fact, part of your responsibilities
13 to access those cables, right?

14 A. I accessed the cables.

15 Q. Was it part of your responsibility as an intelligence
16 analyst to make sure that information was distributed to special
17 agents and others who were working on those same issues?

18 A. If -- it wasn't my sole responsibility to look for a cable
19 and ensure that an agent or somebody else had it. If -- plenty
20 of -- you know, there were instances where agents could access that
21 material as well, so they didn't necessarily need me to do that for
22 them.

23 Q. Okay. You just testified that it wasn't your sole

1 responsibility. Was it one of your many responsibilities during that
2 busy time?

3 A. If I were working with somebody, generally speaking, and
4 if I came across a cable that was -- I thought needed to be read or,
5 for whatever reason, had to deal with something that we were working
6 on, I may -- I may have said, hey, did you see this, or -- and there
7 were instances where, you know, somebody else may have seen it before
8 me or -- but -- but, yes, if I -- generally speaking, if I'm working
9 with somebody else or even on a team that, you know, there's an open
10 back and forth, if I -- I would have shared that, yes.

11 Q. Okay. And so would you have shared information with, for
12 example, Special Agent Zebley?

13 A. I don't actually recall sharing -- getting a cable and
14 bringing it to the attention of -- of Aaron Zebley.

15 Q. But one person who you didn't -- you testified other
16 agents had their own access. And that's because basically everybody
17 had the same access to the same TS system once it was set up; is that
18 right?

19 A. There were -- the access was at FBI Headquarters at that
20 time. There was somebody in a field office did not have the same
21 type of access. And even -- even at headquarters, there was
22 obviously a rollout.

23 I don't know -- I don't know who -- like, I don't know if

1 the -- for example, the PENTTBOM team. I don't know if they had the
2 TS system at their desks. I -- I -- they would -- somebody from that
3 team would have to answer that. But -- but, you know, I had access,
4 yes.

5 Q. All right. The next topic I'd like to talk to you about
6 is the PENTTBOM team. You testified after 9/11 that all analysts and
7 agents were mobilized for the case for a time, correct?

8 A. Generally speaking, in the immediate days after 9/11, I
9 think I was at FBI Headquarters. I was in the operations center, and
10 I think it was -- it's accurate to say the director had everybody
11 focusing their attention on something related to 9/11 at that time.

12 Q. Okay. And over time an investigative corps who was
13 working on 9/11 matters formed; is that right?

14 A. Yes.

15 Q. And that investigative team moved to headquarters on 8
16 October 2001 and became known as PENTTBOM; is that right?

17 A. I know they moved to headquarters, and I know they became
18 the, quote/unquote, PENTTBOM team. When that happened, I don't know.

19 Q. So you testified several times on direct that you
20 personally were not assigned to the PENTTBOM team; is that right?

21 A. Yes.

22 Q. And when you say PENTTBOM team, what do you mean?

23 A. To me, that means it -- as it -- as time evolved, like, it

1 really turned into the Moussaoui trial team. That is, in my mind at
2 least, how I view that.

3 Q. Okay. And were there analysts assigned to the PENTTBOM
4 team?

5 A. I -- I don't know.

6 Q. When the government asked you on direct, "Were you ever
7 part of what was called the PENTTBOM team," your answer was, "At
8 headquarters, no, I was not."

9 Does that imply -- did you mean by that that there was some
10 later time when you were part of the PENTTBOM team?

11 A. No. That -- that -- no, that's not what I was trying to
12 say. I think what I intended to say was I was assigned to FBI
13 Headquarters to the Counterterrorism Division. I, again, assisted
14 the PENTTBOM team at different points in time, but the PENTTBOM team
15 was largely made up of a group from -- from New York, some from
16 Washington field, and then there were TDYers, also,
17 throughout -- over time. But I was specifically assigned to
18 headquarters in the Counterterrorism Division.

19 LDC [MR. CONNELL]: Your Honor, moving to the next chapter.
20 I'm happy to keep going or take the break, whatever you prefer, sir.

21 MJ [Col McCALL]: Keep going.


22 LDC [MR. CONNELL]: Yes.

23 Q. So the next thing I'd like to talk to -- you said that the

1 PENTTBOM team became the Moussaoui trial team. How was the
2 investigation organized with respect to Moussaoui?

3 A. I wasn't really on -- you know, specifically dedicated to
4 the team. So exactly how they had the breakdown of assignments,
5 I -- I'm not sure how exactly. I know a couple people and some of
6 the topic areas that they worked on, but I couldn't give you a
7 breakdown of everybody.

8 Q. Okay. What was your role in the Moussaoui investigation
9 or trial team?

10 A. I ended up helping with matters as it relates to 

11 Q. Were you involved in gathering information from FBI to
12 provide to the Eastern District of Virginia for -- in discovery
13 matters?

14 A. No, I was not.

15 Q. Okay. I'd like to show you the -- what is marked in the
16 record as AE 885H. It's the PowerPoint slide -- slide deck that you
17 gave during direct.

18 LDC [MR. CONNELL]: This page of it, Your Honor, is marked
19 LES, so it's not for display to the gallery.

20 MJ [Col McCALL]: All right. Go ahead.

21 This won't be displayed to the gallery.

22 LDC [MR. CONNELL]: And it's page 17, for the record.

23 Q. So I'd like to draw your attention to the left side of

1 your slide. Do you see that?

2 A. Yes, I do.

3 Q. Down at the bottom -- not all the way to the bottom, but
4 just under -- is a Bates stamp that says "MUAE" and then a set of
5 numbers. Do you see that?

6 A. Yes, I do.

7 Q. Do you know what that refers to?

8 A. I recognize it as one of the Moussaoui Bates numbers.

9 Q. Okay. What other FBI agents worked on the Moussaoui
10 investigation team?

11 I can help. Zebley?

12 A. Yes.

13 Q. Yeah. Fitzgerald?

14 A. Yes.

15 Q. Perkins?

16 A. For a period of time, but then she rotated out. She
17 didn't stay. I don't know. At some point she got another job.

18 Q. Okay. Drucker?

19 A. Same. Same as Abbey Perkins. He was an initial part of
20 the team. And then at some point he gets another -- he takes another
21 assignment. He got another job. And then -- so he was not there
22 during the -- I don't -- he wasn't a part of the team during the
23 trial.

1 Q. And were there any other analysts who worked with you on
2 the Moussaoui investigations team or trial team?

3 A. My work was very kind of -- was very specific, somewhat
4 unique. I -- I didn't really deal with other analysts specific to
5 the Moussaoui trial team.

6 Were other analysts doing some other things? Probably. Did
7 I know them? Again, I know that other people worked on other things,
8 but I -- I didn't interact. I had a very specific kind of area that
9 I was looking at.

10 Q. Okay. I'd like to move chapters now to the High-Value
11 Detainee Prosecution Task Force. Are you aware that in 2003 the
12 United States created something called the Terrorist Threat
13 Integration Center?

14 A. The -- that name is somewhat familiar to me, but
15 I've -- I ----

16 Q. Okay.

17 A. I don't recall.

18 Q. Are you familiar that in 2004, Congress renamed the
19 Terrorist Threat Integration Center as the National Counterterrorism
20 Center and placed it under ODNI?

21 A. I am aware of that, yes.

22 Q. Okay. [REDACTED]

23 A. Yes.

1 Q. Okay. And the -- that -- the Counterterrorism Center
2 opened [REDACTED] in May of 2004. Does that sound right to you?

3 A. I -- I know that [REDACTED] opened at some point in 2004.

4 Q. Okay. And is that when you moved there? That's what I'm
5 trying to get at, is the date.

6 A. I think it was more toward the end of the year, not in the
7 middle of 2004. I think it was later part of 2004.

8 Q. Okay. And when did you become part of the HVD PTF?

9 A. At some point in late -- the latter half of 2006.

10 Q. Was -- so, obviously, prisoners were moved here in
11 September 2006. Was it -- and we've previously had testimony about
12 Special Agent Fitzgerald in October of 2006. Is it -- is it that
13 September/October 2006 time frame that you became part of the team as
14 part of its standout?

15 A. Probably around that same time. I think there were -- it
16 was iterations.

17 Q. And, obviously, you were focused on high-value detainees
18 at that time, right?

19 A. Yes.

20 Q. Okay. And don't answer this if the answer is classified,
21 but in October of 2006, how many high-value detainees were there that
22 your work focused on?

23 A. Out of the -- are we -- can you be more specific?

1 Q. Sure, of course. How many high-value detainees were at
2 Camp VII in October of 2006?

3 A. At some point there were 14 ----

4 Q. Okay.

5 A. ---- I believe.

6 Q. Okay. Were you involved with the creation of the
7 so-called buckets of CIA information about the prisoners at Camp VII?

8 A. The creation of the buckets?

9 Q. Yes.

10 A. I -- no. I didn't create a bucket.

11 Q. Okay. Were you present for Ms. Perkins' testimony?

12 A. I saw Ms. Perkins', maybe her more recent testimony.

13 Q. Okay.

14 A. I don't think I ----

15 Q. I may have messed you up with vocabulary. Let me start
16 back.

17 Are you familiar that members of the HVD PTF in October 2006
18 gained access to a closed system which contained CIA reporting on
19 each of the detainees?

20 A. I am aware of that, yes.

21 Q. Okay. Did you ever hear the word "buckets" used to
22 describe those?

23 A. I have heard it more recently, yes.

1 Q. Okay. And did you have access to them?

2 A. Yes.

3 Q. Okay. And at a general level, what sorts of information
4 were contained in the buckets?

5 A. I -- there were a -- generally speaking, it -- my
6 understanding is that there were cables in the buckets. I -- I don't
7 know what else, if anything, was in there.

8 Q. Okay. What is your role now?

9 A. In the FBI?

10 Q. Yes.

11 A. I'm a supervisory intelligence analyst.

12 Q. And what's your role with respect to the -- either HVD PTF
13 or the prosecution team? Where are you assigned?

14 A. I'm assigned to the Counterterrorism Division, to the unit
15 that is specifically designated to work with the Office of Military
16 Commissions prosecution on this case -- on these cases.

17 Q. What's that unit called?

18 A. The MCPU, Military Commissions Prosecution Unit.

19 Q. And is this a situation where it's back to whatever they
20 ask you to do or do you have defined duties?

21 A. I'm assigned as a supervisor on the -- on the 9/11 trial.
22 I'm also assigned as -- like, in our system, I do -- I am assigned as
23 a manager for the PENTTBOM case that still exists in our system. So

1 because of that, I get other kind of random internal FBI things.

2 But my primary focus has been the prosecution -- the 9/11
3 prosecution.

4 Q. Okay. All right. I'd like to move on from the
5 organization book to a second book, which is about how things get
6 documented.

7 The first chapter in that book is about chain of custody.
8 The FBI has requirements to log chains of custody on evidence it
9 collects; is that right?

10 A. Yes.

11 Q. And one reason for that is to make sure that when
12 prosecutors are making a decision about the strength of evidence,
13 they would know that a line of evidence is what it's claimed to be;
14 is that right?

15 A. That's one reason.

16 Q. It's also to avoid the possibility of tampering or defense
17 claims of tampering?

18 A. I'm sure there's a lot of reasons the FBI has policies on
19 evidence handling.

20 Q. Okay. And another of those is that a valid chain of
21 custody is important to the admissibility of evidence in a court,
22 right?

23 A. Yes.

1 Q. And you testified on direct examination that a 1B is an
2 item of evidence that would require a chain of custody. Does that
3 sound right?

4 A. Yes.

5 Q. And you testified on direct that a chain of custody would
6 be started on a particular item, it would be identified as to when it
7 was collected and who it was collected from. Do you remember that
8 testimony?

9 A. I do.

10 Q. Okay. And is it correct to say the FBI policy requires
11 identification of when it was collected?

12 A. I -- I'm -- we have a whole program guide on exactly the
13 exact -- so what the exact terminology is, I can't quote that, of
14 course. But there's a requirement to put when you get the -- when
15 you get the evidence.

16 Q. And, similarly, like you testified before, the FBI policy
17 requires identification of from whom evidence was collected?

18 A. Yes.

19 Q. And when it was collected is important to establish when
20 the chain of custody begins, right?

21 A. Yes.

22 Q. And from whom it was collected is important to establish
23 the -- the provenance or the origin of evidence; is that right?

1 A. Yes.

2 Q. Typically the origin of evidence is also recorded in a 302
3 or an EC; is that right?

4 A. I -- it can be a 302, an EC. There were different types
5 of documents that were early on in -- that we don't use anymore, but
6 yes, it would be documented somehow typically.

7 Q. And the chain of custody itself is also recorded on an
8 FD-192; is that right? Green sheet?

9 A. It is a -- yeah, the green sheet.

10 Q. And typically the first entry on a green sheet is the
11 first time the evidence came into the possession of the FBI; is that
12 right?

13 A. Typically, yes.

14 Q. And then subsequent entries would record subsequent
15 custodial changes like checking out the evidence for review or
16 sending it to the lab, et cetera?

17 A. There's a variety of things that could be transport that
18 could be on the chain, yes.

19 Q. Okay. And you told us earlier you worked on healthcare
20 fraud issues prior to 9/11. The provenance of documents is important
21 in financial cases, right?

22 A. Yes.

23 Q. And, in fact, when you're investigating someone's

1 financial situation, anomalies in recordkeeping can be evidence of
2 fraud; is that right?

3 A. It could be evidence of -- it could be, but
4 who -- I -- I'm not going to make a conclusion that an anomaly is
5 directly fraud.

6 Q. Sure, of course. But it -- and as a defense attorney, I
7 wouldn't want you to make that.

8 But the -- but it can be evidence of wrongdoing or sloppy
9 bookkeeping?

10 A. It could be evidence of a lot of things.

11 Q. What else could it be evidence of?

12 A. I -- I don't know.

13 Q. Okay. Well, then, I'll make it easier. It could be
14 evidence of fraud?

15 A. Possibly.

16 Q. It could be evidence of poor bookkeeping?

17 A. Possibly.

18 Q. Is there something else that springs to mind?

19 A. I -- I can't think of ----

20 Q. That's fine. Does FBI policy allow agents to keep
21 evidence privately without documenting it?

22 A. I don't know exactly what the policy states. I think
23 that's probably not in accordance with policy.

1 Q. And does FBI policy allow agents to record information
2 that's untrue on a chain of custody sheet?

3 A. Can you repeat the question?

4 Q. Sure. I know it seems like a ridiculous question.

5 Would FBI policy allow agents to record information that was
6 untrue on an FD-192 or a green sheet?

7 A. I don't -- on a green sheet, I don't think that somebody
8 would intentionally put something that's wrong. I don't know that
9 there's a specific evidence policy that says don't do that.

10 Q. Is there one that says, you know, keep accurate records?

11 A. I'm sure that's what the policy says.

12 Q. Yes. Okay.

13 The next topic that I'd like to talk to you about is leads.
14 The government asked you on direct: Do you recall ever using any of
15 the statements that may have been made during the RDI program in the
16 cutting of leads that you were working on when you had this
17 intelligence mission?

18 Do you remember that question?

19 A. I do.

20 Q. Okay. What are leads?

21 A. Leads are when you're asking, you have -- there's
22 something that you may want to have follow-up on, a particular
23 matter, you can send a lead to -- if it's -- especially -- it would

1 be really, also if it were going to another office that you could
2 say, hey, I'm sending this information to Phoenix. Phoenix, can you
3 please do the following? And that would be in the lead portion of an
4 EC.

5 Q. Okay. And the -- I had not heard the phrase "cutting of
6 leads" before, but that -- does that just mean sending leads?

7 A. Yes.

8 Q. Okay. I'd like to show you MEA-FBI-00020495, found in the
9 record at AE 628DD. And I'm just going to show you the top of it at
10 the beginning.

11 LDC [MR. CONNELL]: May I have access to the document camera?
12 It's not for display to the gallery.

13 MJ [Col McCALL]: You may. And, again, this won't be
14 displayed to the gallery.

15 Q. All right. You mentioned ECs. Is this an EC?

16 A. It is.

17 Q. Okay. And you are the drafter?

18 A. I am.

19 Q. I'd like to direct your attention to ----

20 LDC [MR. CONNELL]: Court's indulgence? I'm missing a page.

21 MJ [Col McCALL]: That's fine.

22 **[Pause.]**

23 Q. Okay. At page MEA-FBI-00020507, I'd like to show you an

1 unclassified paragraph from that same EC, which is about questions
2 can be directed to you, Ms. Waltz, or Special Agent Fitzgerald. Do
3 you see that?

4 A. I do, yes.

5 Q. Okay. And in an EC, typically that would be followed by
6 the leads; is that right?

7 A. It -- it could be.

8 Q. Okay. I'd like to show you page 00020508, which is
9 entirely redacted. Is that where you would typically expect to find
10 the leads in an EC?

11 A. Yes.

12 Q. Ma'am, I'd like to show you MEA-WALTZ-00000001, which is
13 found in the record at AE 628RRRRRR (AAA) Attachment F.

14 LDC [MR. CONNELL]: May I have access to the document camera?

15 MJ [Col McCALL]: You may. And, again, not to display to the
16 public.

17 LDC [MR. CONNELL]: Correct, sir.

18 Q. This is also an EC drafted by you; is that right?

19 A. It is, yes.

20 **[Pause.]**

21 LDC [MR. CONNELL]: I have the same problem.

22 Q. All right. I'd like to show you what's marked
23 WALTZ -- just to orient you first, show you WALTZ-00000003. I'll

1 show you the bottom page, bottom of the page, unclassified paragraph.
2 There's, once again, a follow-up paragraph referencing you, Special
3 Agent Fitzgerald, and Special Agent Zebley; is that right?

4 A. Yes.

5 Q. And then I'm going to flip the page to show you 00000004
6 and show you redactions. Are those typically where the leads would
7 be?

8 A. Yes.

9 Q. And then, third, I'd like to show you
10 MEA-WALTZ-00000012 ----

11 LDC [MR. CONNELL]: Can you return that to them?

12 Q. ---- at AE 628RRRRRR (AAA) Attachment F. This is also an
13 EC drafted by you; is that right?

14 A. Yes, it is.

15 Q. Now, this one has an unclassified synopsis. This one
16 refers to a request for passage of information regarding Ali Abdul
17 Aziz Ali to [REDACTED] Central Bank. Do you see that?

18 A. I do, yes.

19 Q. Okay. And I would like to direct your attention to the
20 last page of the document at WALTZ-00000017, fully redacted page. Is
21 that where the leads would typically be?

22 A. Yes.

23 Q. Okay. You told us earlier that you have -- when did you

1 become involved with the prosecution team in this case? We know you
2 became -- went on HVD PTF in 2006. Is that in your mind coextensive
3 with the prosecution team or is that separate?

4 A. I would say, generally speaking, that's when I met some of
5 the prosecutors. I really didn't have any interaction -- maybe
6 minimal interaction with the prosecution team prior to the interviews
7 here in Guantanamo. I would say I really had more interaction and
8 really started working more -- would have been following the
9 interviews that we did -- well, the interviews that were done by the
10 FBI.

11 Q. In January 2007?

12 A. Yeah, the January/February 2007 time frame.

13 Q. Okay. You told us -- you testified on cross-examination
14 earlier today about some work that you did on the AE 538 series,
15 which I was -- not everybody can remember all those AEs, so that was
16 good.

17 The -- are you involved with the process by which discovery
18 gets from the FBI to the prosecution?

19 A. Involved to the extent that if we need to give them
20 documents, sometimes I'm -- put the documents -- I give the documents
21 to the prosecution. That has happened. But I'm -- generally
22 speaking, you know, I'm engaged with the prosecution team. And
23 before -- if there's discussions regarding, you know, things that

1 they need to review for potential discovery, I am -- depending on the
2 subject matter, I may be involved with that.

3 Q. Okay. I'll represent to you that Special Agent Fitzgerald
4 testified that there were about 165,000 302s prepared by the FBI in
5 connection with the 9/11 investigation and that the prosecution in
6 this case produced about 9,000 of those to the defense.

7 My question to you is: Do you know whether that was a
8 prosecution decision or whether that was an FBI decision?

9 A. FBI does not make decisions on discovery.

10 Q. Okay. So FBI would have provided that entire -- the
11 entire set of 302s and ECs to the prosecution, and they would make
12 the decision as to what to produce to the defense?

13 A. A tremendous amount of documents were provided to the
14 prosecution team over the course of a -- several years. We've been
15 doing this for a very long time.

16 So there's been -- I can't even begin to put actual numbers
17 on how -- how many documents and at what point in time they were
18 either provided or reviewed.

19 Q. Okay. I'd like to show you MEA-FBI-00006724, found in the
20 record at AE 827AAA (WBA) Attachment D.

21 LDC [MR. CONNELL]: May I have access to the document camera?

22 MJ [Col McCALL]: Go ahead. And is this something, again, not
23 to be displayed to the gallery?

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1 LDC [MR. CONNELL]: It is LES, so it is not for display to the
2 gallery.

3 MJ [Col McCALL]: Right.

4 Q. I'm not going to ask you questions about the content, but
5 I do want to give you a second to review it.

6 A. Okay.

7 Q. Okay. So this is a 302; is that right?

8 A. I -- I -- I don't know. If I saw the bottom of the
9 document, that might help.

10 Q. I know what you're asking for, but -- this is some sort of
11 electronic version of a 302?

12 A. Possibly.

13 Q. Okay. You see that it was -- nothing at the back either.

14 So my question is: You see that essentially every
15 person -- the personally identifying information, other than last
16 name of the interviewers -- last name of the interviewee, is redacted
17 from this document. Do you see that?

18 A. Yes, I do.

19 Q. Okay. Here's my question: Did FBI require that these
20 redactions be applied?

21 A. I -- I -- I can't answer that. I -- I have no idea about
22 how that -- the -- how the redactions on this particular document
23 that I'm looking at -- this is probably the first time I've ever seen

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1 this document, so ----

2 Q. I understand. Did you see the first 10,000 pages of FBI
3 discovery that the prosecution produced to us, to the defense?

4 A. I don't think I did.

5 Q. Okay. Were you involved with the prosecution in 2014?

6 A. In 2014?

7 Q. 2014, yes.

8 A. Yes.

9 Q. Okay. Were you involved in the transfer of 302s from the
10 FBI to the prosecution for them to produce to the defense, or not, as
11 they made the decision?

12 A. I wasn't personally involved with that. There was a
13 massive effort, a significant effort by the FBI to get the Office of
14 Military Commissions prosecution a significant amount of information
15 that was a result of a lot of different coordinations.

16 So there were other people assigned to the Prosecution Task
17 Force responsible for these significant downloads of information. I
18 didn't personally do that.

19 Q. Okay. Do you know who was in charge of that effort?

20 MTC [MR. TRIVETT]: Objection. Relevance.

21 MJ [Col McCALL]: Response?

22 LDC [MR. CONNELL]: Yes, sir. Much of our -- I have -- we
23 have asked and asked, and we have never had any answer to the

1 question of why is so much of the discovery of such poor quality.

2 And the answer that we got is that they were all
3 relevant -- every single one was relevance redactions. Every single
4 redaction on this document -- the government formally represented to
5 the military commission that all these redactions were relevance
6 redactions. It seems -- and not PII redactions. I've never believed
7 that. It seems impossible.

8 And the -- what I am trying to get at is who knows the
9 answer to why our discovery is such low quality. And I thought maybe
10 it was the FBI that insisted on PII redactions to go to the
11 prosecution. The prosecution says it wasn't them.

12 Like, I don't know. And so I'm just trying to vet who we
13 can ask the question to. This is the best witness we have ever had
14 on FBI discovery questions, and she says she's not necessarily the
15 best witness, but she's the best that we have. And so all -- my
16 actual question is: Who would know?

17 MJ [Col McCALL]: All right. I understand that.

18 So, I guess, Mr. Trivett, I mean, am I incorrect that this
19 is prosecution's decision on these redactions?

20 MTC [MR. TRIVETT]: Yes, sir. And I do believe that we have
21 provided lesser redacted versions of the 302s to Mr. Connell.

22 Hold on. All right, hold on. Let me consult with counsel.

23 MJ [Col McCALL]: Sure. Please.

1 Well, let's do this because we're actually right at a point
2 where -- let's go ahead and take a recess. So it's 1602, and it
3 sounds like it's not raining right now. So I'm probably jinxing us.
4 But let's take a 15-minute recess. We'll be back on the record at
5 1617.

6 **[The witness withdrew from the courtroom.]**

7 MJ [Col McCALL]: The commission's in recess.

8 **[The R.M.C. 803 session recessed at 1602, 16 April 2024.]**

9 **[The R.M.C. 803 session was called to order at 1617, 16 April 2024.]**

10 MJ [Col McCALL]: Commission is called to order.

11 Parties are present. The accused are absent.

12 If we can get the witness back on the witness stand.

13 **[The witness, SIA Kimberly Waltz, resumed the witness stand.]**

14 MJ [Col McCALL]: All right. And was that issue resolved as
15 far as the redactions, Mr. Trivett?

16 MTC [MR. TRIVETT]: So my statement as to providing
17 more -- less redacted documents was a general statement that didn't
18 apply evidently to this direct document. And so was there any other
19 question?

20 MJ [Col McCALL]: Going to the heart of the question, I mean,
21 redactions on discovery that's been provided by the government are
22 redactions that have been made by the prosecution, correct? Every so
23 often there will be redactions to the underlying documents but those

1 are typically ----

2 MTC [MR. TRIVETT]: Those are rare. What I can say is we
3 either make them or we adopt them. And what I can say with all of
4 these electronic versions of these 302s, these were direct pulls from
5 the Moussaoui discovery. But we had a lot of litigation on that. I
6 don't want to go into too many more details without refreshing my
7 recollection on all of it.

8 But this was from Moussaoui discovery of the 165,000 when we
9 took out our 9- or 10,000 that we determined was discoverable. We
10 then disclosed those in the same form that the Eastern District of
11 Virginia disclosed them to the Moussaoui defense team.

12 MJ [Col McCALL]: All right. And I guess it doesn't sound
13 like this witness knows the answer, so I will say sustained for the
14 objection as far as to this witness.

15 But, Mr. Connell, if you have documents such as this that
16 you have questions on where those redactions come from, ask the
17 government. And the prosecution should be able to track that down
18 for you, is my thought.

19 LDC [MR. CONNELL]: Yes, sir.

20 **CROSS-EXAMINATION CONTINUED**

21 **Questions by the Learned Defense Counsel [MR. CONNELL]:**

22 Q. Okay. We're moving on now to the 9/11 investigation. You
23 testified on direct examination that Adel Rafeea came forward in San

1 Diego; do you recall?

2 A. Adel Rafeea?

3 Q. I'm sure your pronunciation is better than mine.

4 A. Yes, the individual, Adel Rafeea, was interviewed by the
5 FBI.

6 Q. Okay. And he explained that he had received a wire
7 transfer for \$5,000 in April 2000 on behalf of al Mihdhar and
8 al Hazmi?

9 A. Yes.

10 Q. And he also -- in the same interview he explained that he
11 had met al Mihdhar and al Hazmi through Omar al Bayoumi?

12 A. I know that Mr. Rafeea was interviewed several -- he was
13 interviewed more than once. I actually think he was interviewed
14 several times. So with respect to exactly when he said what, I would
15 have to look at the document, one. And two, I didn't do the
16 interview myself.

17 So I am speak -- I -- there are certain things that I've
18 reviewed and other things that I have not.

19 Q. Okay. So I can get the document, but just let's try the
20 easy way first, which is, over the course of the three interviews
21 that the San Diego office conducted of Mr. -- you say Rafeea?

22 A. My pronunciation.

23 Q. Mr. Rafeea. At the same time -- in addition to saying

1 that he had received \$5,000 on behalf of Mr. Al Mihdhar and
2 Mr. al Hazmi, he said that he had met them through Omar al Bayoumi;
3 is that right?

4 A. I don't know.

5 Q. Ma'am, I'll show you MEA-FBI-00013341, contained in the
6 record at AE 628CC, corrected copy, Attachment H. It's another one
7 of these electronic versions, but it's marked LES.

8 LDC [MR. CONNELL]: May I have access to the document camera,
9 but not display to the gallery?

10 MJ [Col McCALL]: You may.

11 Q. When you testified, ma'am, that -- I'm sorry. This is a
12 302 of an interview of Mr. Rafeea. I can show you the bottom. It is
13 helpful on this one.

14 A. Okay.

15 Q. Is that yes, it is?

16 A. Yes, it's helpful.

17 Q. And yes, it's a 302 of an interview of Mr. Rafeea?

18 A. Yes.

19 Q. Is this the document that you relied upon when you
20 testified that Adel Rafeea came forward in San Diego with information
21 about the \$5,000 money transfer?

22 A. I don't know that it was this specific document. Again, I
23 know Mr. Rafeea was interviewed more than once. And I also know that

1 there's been, even after kind of this -- these interviews, that there
2 was even interaction with him with respect to being a possible
3 witness.

4 So I -- can I -- am I -- can I point to a specific document
5 as to where I learned that fact? I don't -- I don't know that it was
6 this specific document.

7 Q. Okay. We'll come back to that in a second.

8 But are you saying that Mr. Rafeea was interviewed again
9 after 2000 -- after the series of interviews in 2001?

10 A. I wouldn't categorize it as an interview. If we're
11 meeting somebody to potentially discuss testimony, that's not
12 necessarily an interview.

13 Q. Okay. Was a document prepared regarding that discussion?

14 A. I -- I would have to look. I ----

15 Q. What do you mean, you would have to look?

16 A. I wasn't there. I don't know.

17 Q. Oh, you weren't there. Okay. The -- so this is the 302,
18 however, in which he describes the \$5,000 money transfer? I can show
19 you the next page when you're ready.

20 A. Okay.

21 **[Pause.]**

22 A. Okay.

23 Q. So would you concur, this is the 302 which describes the

1 interview of Mr. Rafeea in which he describes the money transfer?

2 A. It's a 302 that describes the money transfer, yes.

3 Q. And I'll show you the next page. There are references to
4 Omar, correct?

5 A. I see that, yep.

6 Q. Okay. And you are aware that this Omar described in this
7 interview is Omar al Bayoumi?

8 A. Well, I see Omar al Bayoumi's name, so ----

9 Q. Okay. Perhaps I don't understand the distinction that
10 you're drawing, but the -- you would agree that in the same interview
11 in which Mr. Rafeea described the \$5,000 money transfer, he described
12 that he came to know Mihdhar and Hazmi through Omar al Bayoumi. Do
13 you agree?

14 A. That's what the document indicates, yes.

15 Q. Okay. And you were -- at the time of that interview on 17
16 September 2001, you were part of the Financial Review Group; is that
17 right?

18 A. 17 September 2001, I believe that I was still in the
19 Operations Center. Probably the beginnings of the Financial Review
20 Group was starting. Exactly when that started, I -- I can't put an
21 exact date on it.

22 Q. Fair enough. But in the late September, early October
23 time frame?

1 A. For the beginnings of the Financial Review Group?

2 Probably.

3 Q. Okay. Did the Financial Review Group take any action with
4 regard to the financial investigation into Mr. al Bayoumi?

5 A. I recall someone else looking into the -- those financial
6 matters.

7 Q. Okay. And who was that?

8 A. It's another financial analyst that was there. I'm
9 probably going to butcher her name, but I'll give it a go.

10 Q. I got Rafeea wrong, so...

11 A. Erin Chvojka - Chvojka, something like that.

12 Q. Okay. Something like S-H-I-V-O-K-A?

13 A. I think it's like a C.

14 Q. C-H-I? Something like that. Okay. Maybe we can circle
15 up on that later.

16 A. It might be -- yeah. I recall a financial analyst working
17 on Bayoumi matters.

18 Q. I understand. And do you recall that there was a motion
19 about discovery related to Mr. al Bayoumi in this case?

20 A. I do recall that.

21 Q. Okay. And were you in court, or do you recall that on 6
22 October 2023, Mr. Ryan said to the court: I asked my friends in the
23 FBI to please query the name Bayoumi.

1 Do you recall that?

2 A. I wasn't in the courtroom.

3 Q. Okay. When Mr. Ryan asked his friends in the FBI to
4 please query the name Bayoumi, were you involved in that request?

5 A. I was involved -- so we were assisting Mr. Ryan, yes.

6 Q. Okay. And did you query the name al Bayoumi?

7 A. I did not.

8 Q. Or did you convey a request someone else to query the name
9 al Bayoumi?

10 A. Yes, I did.

11 Q. Okay. And Mr. Ryan represented to the court that day that
12 the total in the FBI databases was found in 924 documents,
13 approximately 3,000 pages. Do you know where he got that number, 924
14 documents?

15 A. I recall the number. I also recall that there were likely
16 parameters to -- like, that got to that number. I can't recall right
17 now exactly what those parameters were. But I do recall the
18 discussion, yes.

19 Q. Okay. And are you aware that later the government
20 represented that its initial review had found 9,000 documents?

21 A. I am aware that there's a tremendous -- there's a
22 significant number of documents, yes.

23 Q. Okay. And are -- what I'm trying to find out is what

1 changed. Why did -- why did the information that the government had
2 from the FBI initially be 924 documents, and then why is it later
3 9,000 documents?

4 A. Because we had to do a -- based upon the interpretation of
5 the order we received, it's extremely broad. So if you run the name
6 in our system, you know, just putting it out there for anything that
7 the FBI works, then it's a very large number.

8 Q. Okay. Are you saying that it's a different al Bayoumi or
9 that you can -- when you search the name Omar al Bayoumi, it gives a
10 different result now than it did when Mr. Ryan first made that
11 representation?

12 A. Again, when we looked at this early and when we were
13 talking about it with Mr. Ryan, I believe that we were looking
14 specifically at -- I don't want to say -- there were certain
15 parameters that we had. And I think when you remove those
16 parameters, the number is significantly different, one.

17 And, two, it -- the document has to be looked at to see if
18 it's the Omar al Bayoumi that's been ordered, or is there a
19 different ----

20 Q. Person ----

21 A. ---- individual with a similar name or same name. But
22 there's an assessment that would have to be made. It could be
23 somebody different.

1 Q. What were the -- what parameters are you referring to?

2 A. We may have looked for -- again, for purposes of
3 Mr. Ryan's discussion and his argument, we were -- I can't recall
4 exactly what the parameters were.

5 What I do know -- what I do know is that it was not a go
6 into our system and just enter the name and see what comes out,
7 again, because of this scenario of there could be other people with
8 the same name.

9 So the 924-- can't -- I would have to look to give -- I
10 would have to look to see where that 924 specifically came from and
11 what parameters were put in place.

12 Q. Okay. Was it -- was it you who gave him the number 924 or
13 somebody else?

14 A. I probably did.

15 Q. Okay. And so what -- is what you're saying, that when the
16 description was of querying the name Bayoumi, it wasn't as simple as
17 that? In fact, there were other parameters that were placed on the
18 query?

19 A. When I say other parameters, I -- right now I can't recall
20 the specifics, and I don't want to misrepresent it. So as I sit here
21 right now, I can't tell you. I haven't looked at that stuff
22 since -- since -- the argument was last year? I haven't looked at it
23 since then. I don't want to misspeak.

1 So sitting here right now, I can't tell you what the exact
2 parameters were. Did parameters exist? They did. What exactly were
3 those? I'm not able to say that right now.

4 Q. Okay. And so the most recent government representation is
5 that there are 12,000 documents. Were you involved in
6 the -- conveying either the number 9,000 or the number 12,000
7 to -- from the FBI to the government?

8 A. I was not.

9 Q. Okay. Now I'd like to move to the investigation in the
10 United Arab Emirates.

11 You testified that in 2001 to 2002, the FBI didn't have a
12 legat, but the first acting ALAT was Special Agent George Piro; is
13 that correct?

14 A. I think I said I recalled the names, like George Piro was
15 one of the names that I recalled. And he was one of the individuals
16 that I had contact with. I don't believe that he was the first one
17 there, though.

18 Q. Okay. Do you -- do you remember the name Rhody?

19 A. I do, yes.

20 Q. Was Special Agent Rhody there before Special Agent Piro?

21 A. I believe so, yes.

22 Q. Okay. That makes more sense.

23 And do you know -- and then after Special Agent Piro was

1 Special Agent Neer; is that right?

2 A. Yes.

3 Q. Okay. And do you remember approximately when that
4 transition took place from Special Agent Piro to Special Agent Neer?

5 A. Somewhere probably between March, April, May 2002,
6 somewhere in there.

7 Q. Okay. You testified on direct examination that the FBI
8 worked [REDACTED] to obtain documents
9 pertaining to the hijackers and Mr. Ali and Mr. al Hawsawi.

10 Who [REDACTED] did you work with to obtain
11 documents pertaining to the hijackers and Mr. al Baluchi and
12 Mr. al Hawsawi?

13 A. I worked with members of the UAE Central Bank [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]

17 Q. Okay. We'll come back to it.

18 Just so I'm clear, you were not on the February 2002 trip to
19 the UAE involving Special Agent Perkins and Special Agent Drucker; is
20 that right?

21 A. That's correct.

22 Q. Okay. Your first trip to UAE was in April of 2002?

23 A. Yes, about April of 2002. I'm -- I'm trying to put time

1 frames on it, but I -- yeah, so about April of 2002, yes.

2 Q. Sure. About how long was that trip in April 2002?

3 A. Couple months.

4 Q. A couple months. So did you get there in April, or it
5 just stretched over April?

6 A. I got there in -- it would have -- that would have been
7 the beginning of my trip. I -- exact -- I don't have exact dates.

8 Q. Sure. But April through June?

9 A. June.

10 Q. And you testified on direct that no one from the PENTTBOM
11 was on that trip with you; is that right? Did I get that right?

12 A. On -- with me, that's correct.

13 Q. Okay. Did any other -- and so Special Agent Piro is there
14 as ALAT or acting ALAT at the time, right?

15 A. He -- he was. I didn't speak with him, and I didn't see
16 him in the UAE. So that's why that, like, timing of that changeover
17 between Special Agent Piro and Special Agent Tom Neer I think was
18 likely around that time. I don't recall talking -- I don't recall
19 seeing Special Agent Piro in the UAE ----

20 Q. Okay.

21 A. ---- at that time.

22 Q. Did anyone else from the United States travel with you to
23 the UAE in -- for that April 2002 trip?

1 A. Yes. There were several other people.

2 Q. Okay. Who traveled with you?

3 A. There were -- it was a larger group from the FBI. There
4 were some folks, I believe, from IRS. Like, it was a larger
5 contingent.

6 Q. Okay. Was Special Agent Drucker one of them?

7 A. No.

8 Q. Was Special Agent Drucker in the UAE, to the best of your
9 knowledge, in April of 2002?

10 A. I don't -- I don't recall. But I just -- I didn't see him
11 at that time.

12 Q. But if he was there, he didn't travel with you?

13 A. That's correct.

14 Q. Okay. And you testified that an econ officer in the
15 embassy indicated that you really need to talk to the bankers. Who
16 was the econ officer? Do you recall?

17 A. I recall the name Tom Williams.

18 Q. And you testified that eventually they got you in touch
19 with representatives of the Central Bank. Who were the
20 representatives of the Central Bank, if you recall?

21 A. In that April of 2002 trip?

22 Q. I -- I don't want to promise you that, because your
23 testimony was eventually, and I know that sometimes you like to be

1 careful about times and put time frames on it. So I don't want to
2 represent to you that you meant that it was in April. Maybe it was
3 later.

4 But when you testified that eventually they got you in touch
5 with representatives of the Central Bank, I'm asking who those
6 representatives were eventually.

7 A. Eventually -- I can't recall specifics of who we were
8 working with in the April of 2002 trip. But at some point during
9 that trip I met with one of their -- the head of their [REDACTED]
10 [REDACTED] unit. I don't know that that's the
11 name of his unit, like, at that time, so...

12 Q. Would that be [REDACTED]?

13 A. [REDACTED]

14 Q. [REDACTED]?

15 A. I believe that's his last name.

16 Q. Okay. I might have a document that might help you out on
17 that.

18 A. That's fine.

19 Q. Do you remember anybody else?

20 A. The [REDACTED] of the Central Bank.

21 Q. And who was that?

22 A. [REDACTED].

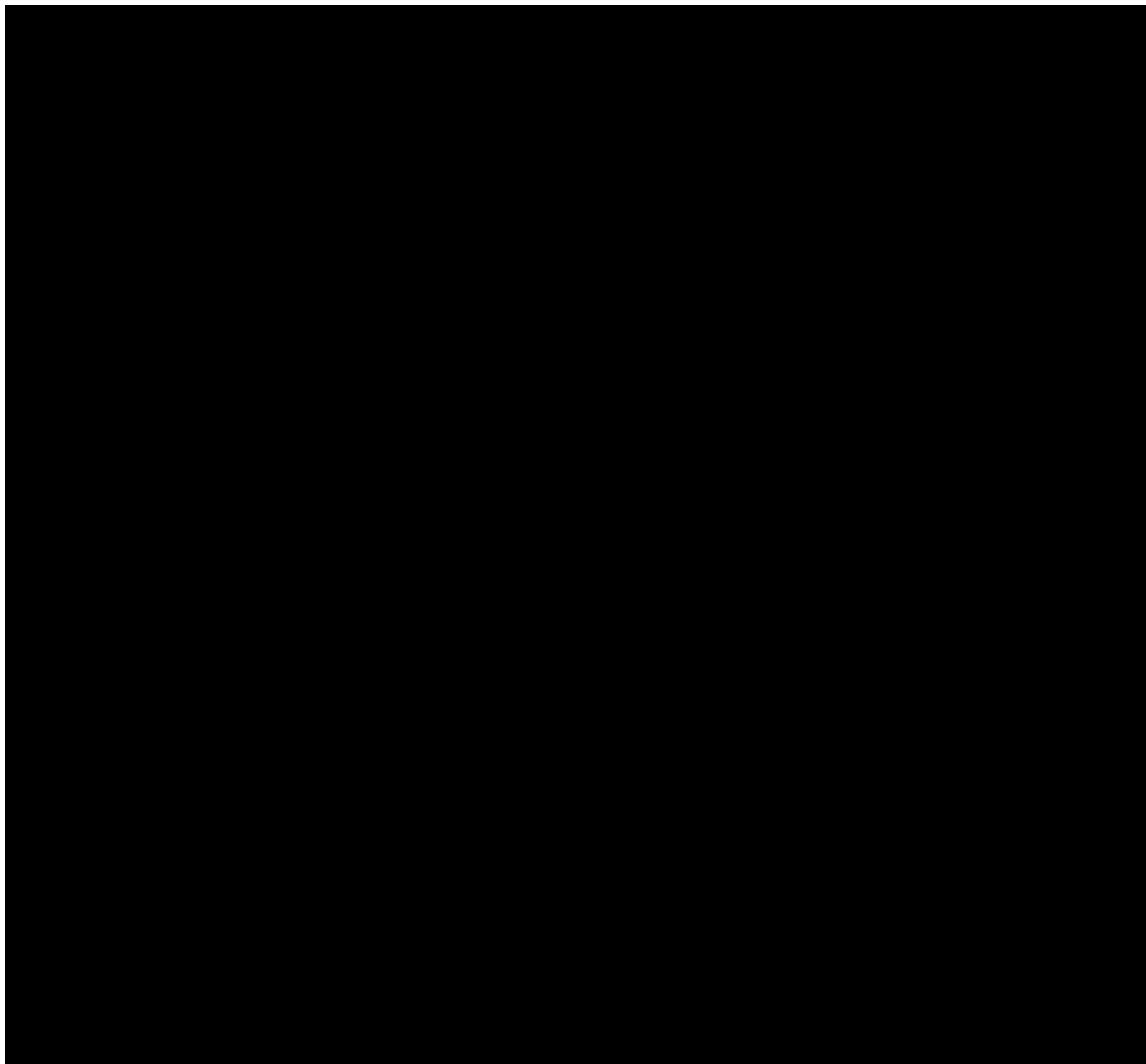
23 Q. Okay. I'd like to ask you now -- talk to you now about

1 the supplementary card application in the name of al Ghamdi.

2 A. Okay.

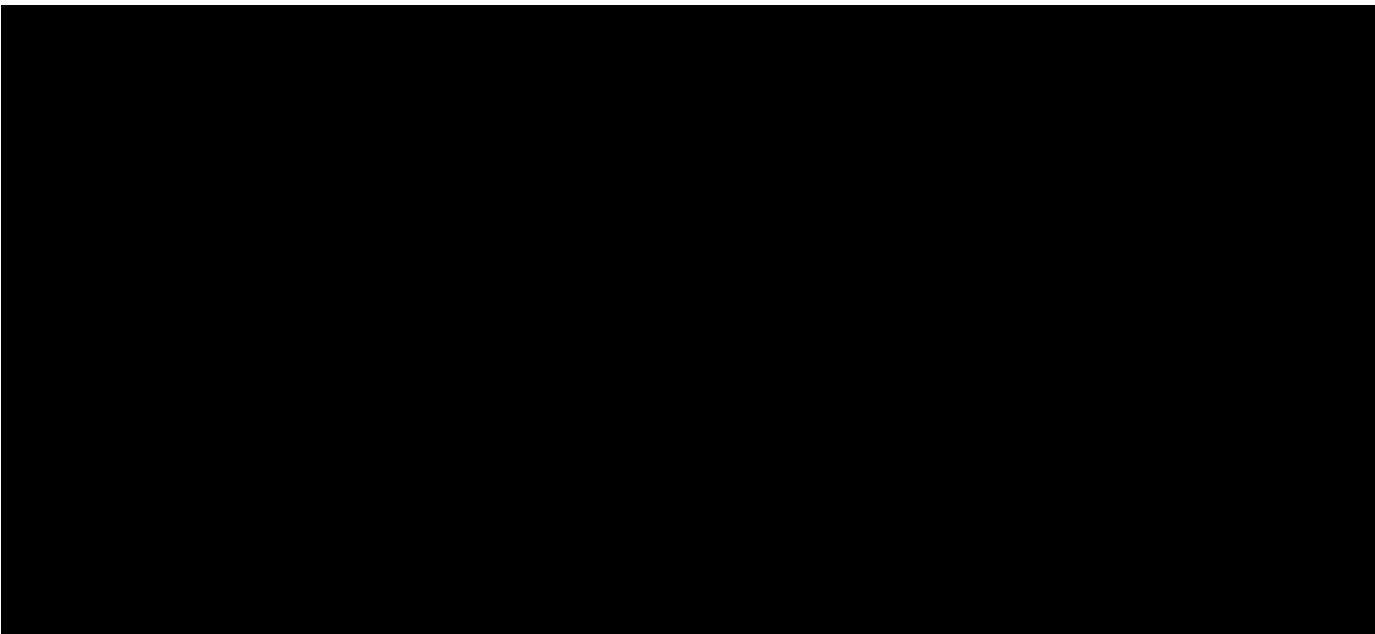
3 Q. You testified on direct that there was a supplementary
4 visa card attached to Mr. al Hawsawi's account; is that right?

5 A. Yes. It was submitted to -- submitted to the bank, yes.



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10 LDC [MR. CONNELL]: Court's indulgence for just a moment?

11 MJ [Col McCALL]: Sure.

12 **[Pause.]**

13 LDC [MR. CONNELL]: Your Honor, very sharp folks have noticed
14 that I gave the wrong AE number for that last document. It was
15 actually AE 628LL (AAA). So I apologize.

16 MJ [Col McCALL]: All right. Thank you for that correction.

17 Q. All right. I'd like to show you -- I might be able to
18 help out here -- MEA-HAW-00000027, found in the record at AE 630BBBB
19 (Gov).

20 LDC [MR. CONNELL]: May I have access to the document camera?
21 It's LES, not for display in the gallery.

22 MJ [Col McCALL]: You may. Go ahead.

23 Q. Are you familiar with that item of evidence?

1 A. Yes, I am.

2 Q. Okay. And do you know where -- this is a yes-or-no
3 question. Do you know where that item of evidence was reported to be
4 gathered?

5 A. Yes.

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21 A. Okay.

22 **[Pause.]**

23 Q. Ma'am, I'd like to show you MEA-FIN-00016887, contained in

1 the record at AE 877 (MAH) Attachment Z.

2 LDC [MR. CONNELL]: May I have permission to use the document
3 camera? Not for display to the gallery.

4 MJ [Col McCALL]: You may.

5 Q. This is a cover sheet, which is marked 1A 194; is that
6 right?

7 A. Yes, that's correct.

8 Q. Okay. Does that help you with -- and let's do it this
9 way. 1A 194 is associated with 1B 2046; is that right?

10 A. It's associated with it, yes.

11 Q. Okay. Does this help refresh your recollection as to when
12 the items came into the possession of the FBI?

13 A. Not the document that you just showed me.

14 Q. No? Okay.

15 Okay. So the supplementary card application had to do with
16 a visa card in the name of al Ghamdi; is that right?

17 A. Yes, that's correct.

18 Q. Okay. All right. Ma'am, I'd like to show you now
19 MEA-STA-00000044.

20 LDC [MR. CONNELL]: May I have access to the document camera?
21 This is appropriate for display to the gallery.

22 MJ [Col McCALL]: All right. Go ahead. It can be displayed
23 to the gallery.

1 Q. Okay. This is the first STA document that we've looked
2 at. Are you familiar with this form of document?

3 A. I'm generally familiar with it because of the -- because
4 I'm a part of the prosecution team.

5 Q. Sure.

6 A. So that's how I'm generally familiar with it. Do I
7 have -- I really don't have anything to do with that part of what the
8 prosecutors do, though.

9 Q. Sure, I understand. And it's your understanding that this
10 type of document is a substitution approved by the military
11 commission for an original cable prepared by the CIA on detainee
12 reporting; is that right?

13 A. That's my understanding.

14 Q. Okay. And I can represent to you that the prosecution has
15 told us that this is a summary of an 8 May 2003 interrogation. And
16 you can review it yourself and satisfy yourself that it relates to
17 the use of a passport to obtain a supplementary card in the name of
18 al Ghamdi.

19 A. Okay.

20 Q. Okay. My question is: How did information about this
21 supplementary card application get from FBI to CIA to be used in an
22 interrogation?

23 A. I -- I -- I don't know.

1 Q. Okay. Did FBI routinely provide the results of its
2 investigation to the CIA for use in an interrogation or for any other
3 purpose?

4 A. So you're asking me about, like, big FBI? I can tell you
5 work that I have done. Does the -- does the FBI and CIA generally
6 communicate? Yes. What was -- what was specifically relayed, by
7 whom, and when? I'm not able to articulate that.

8 Q. Okay. You've mentioned work that you've done. In the
9 work that you've done, has it ever involved providing information to
10 intelligence community partners on FBI investigation?

11 A. I'm sure that I have, yes, over the course of my career,
12 yes, that I've interacted with the intelligence community regarding
13 FBI investigations.

14 Q. Okay. And my question is: Is there a -- does that occur
15 in the form of a cable or a form? How is information passed
16 to -- from FBI about FBI investigations to intelligence community
17 partners?

18 A. It could be a variety of ways.

19 Q. Okay. And knowing that in -- at some point in 2002, the
20 supplementary card application came into FBI possession, and in
21 knowing that in May of 2003, Mr. Mohammad was interrogated in a black
22 site about it, which of those varieties of ways, in your experience,
23 seems likely to have gone -- for the information to get from FBI to

1 CIA?

2 A. I -- I have no idea.

3 Q. Okay.

4 A. I didn't -- I did not send the -- I didn't send or
5 otherwise provide the supplementary visa card application to the CIA.
6 Therefore, I don't know how it became in their -- how it came in
7 their possession. I can't speak to that.

8 Q. Okay. Do cables go to the CIA from the FBI conveying the
9 results from investigations?

10 A. Yes.

11 Q. Now, this is May 2003, and it relates to -- by the time
12 that this came out, was disseminated in May of 2003, you were aware
13 of the supplementary card application that had -- that related to
14 UAE, correct?

15 A. By May of 2003? Yes. The -- I was aware of the
16 supplementary visa card in the name of Abdul Rahman al Ghamdi, yes.

17 Q. Right. And when -- and because you were following the
18 money, that was actually an important piece of the evidence that you
19 had gathered or were analyzing at that time; is that right?

20 A. It was something that -- that I was -- had been -- had
21 looked at, yes.

22 Q. Okay. When this reporting came out from CIA, did you see
23 it?

1 A. In -- at this time, when it first came out in ----

2 Q. We can start there.

3 A. Probably not.

4 Q. Okay. Did you see it at a later time?

5 A. I believe so, yes.

6 Q. Okay. How much later?

7 A. I -- I have no idea. I was traveling also around this
8 specific time, so -- on a -- on other matters, so I was actually out
9 of the country when -- in ----

10 Q. It's not on there, but May of 2003.

11 A. So I don't know when I would have seen it.

12 Q. Okay. Like, when you got back to the office?

13 A. At some point I saw it. I -- I can't isolate when. I'm
14 sorry.

15 Q. Okay.

16 A. I can't -- I can't put a specific time frame on it.

17 Q. All right. The reason why I'm asking is, you don't mean,
18 like, you saw it last week in preparation for this examination or
19 something, you mean you saw it during the time that you were
20 primarily involved in these activities in 2003, 2004?

21 A. 2003, I -- I'm -- probably 2004, 2005. I -- I don't know
22 when I saw it.

23 Q. Did you rely on this particular detainee reporting to seek

1 additional documentation in the UAE?

2 A. I believe I did, yes.

3 Q. When did you seek that additional documentation in the
4 UAE?

5 A. Probably at some point in 2005.

6 Q. Okay. So you definitely saw this detainee reporting
7 before that effort in 2005; is that right?

8 A. Yes.

9 Q. Okay. I'd like to move on to 1B 2046. I'll show you your
10 slide deck, which is found in the record at AE 885H, page 11. This
11 page is LES, so it is not appropriate for display to the gallery.

12 LDC [MR. CONNELL]: May I have access to the document camera?

13 MJ [Col McCALL]: Go ahead.

14 Q. Okay. On the left-hand side of the page there's a cover
15 sheet, which you testified on direct examination is the cover sheet
16 for 1B 2046. Do you recall? I'm going to give you the opportunity
17 to explain and deconflict it, but do you remember that part?

18 A. I -- I don't believe I testified to that.

19 LDC [MR. CONNELL]: Okay. Just a moment.

20 **[Pause.]**

21 Q. Okay. What do you recall your testimony being about this
22 document?

23 A. This document is a cover sheet for a -- for 1A. This

1 document on the left?

2 Q. Yes.

3 A. The handwritten?

4 Q. Yes.

5 A. Is a -- this is a document, the cover 1A envelope for 1A
6 194.

7 Q. Okay. Is there a cover sheet for 1B 246 -- 2046? I mean,
8 does one exist?

9 A. A chain of custody exists for 1B 2046. A cover sheet that
10 we're talking about right here is -- we're saying cover sheet. This
11 is a 1A envelope. And this is what a 1A envelope looks like.

12 I believe in this instance it's actually taped to a larger
13 envelope because the booklet wouldn't fit in the little envelope.

14 But this type of document right here doesn't necessarily
15 exist specifically on 1Bs because it's -- this is a 1A envelope.
16 Could somebody use it to put something on a 1B? They could.

17 But it doesn't necessarily -- this isn't -- you're not going
18 to necessarily see this for all of our 1Bs. 1Bs have a description
19 and a chain of custody, not -- you know, not necessarily this -- this
20 specific document. Again, it could be, but it doesn't -- there's
21 no -- doesn't necessarily reflect, you know, a 1B cover sheet, let's
22 say.

23 Q. All right. So when you say 1Bs have a chain of custody

1 and a description, is that on a cover sheet? What is a -- what is a
2 1B? What is the 1B that you're talking about?

3 A. It's a system-generated document, and it -- the chain of
4 custody would be attached to it.

5 Q. Okay. When you say a chain of custody, you mean the
6 FD-192, green sheet?

7 A. The green sheet, yeah. I'm not up on my FD numbers at
8 this moment in time, but if the -- if the green sheet of the chain of
9 custody has the FD-192 in the corner, I'll, you know -- then, yes.
10 But our 1Bs don't necessarily have this -- this type of cover sheet.

11 Q. Okay. Is there a 1B document of any kind for the 1B 2046
12 that you testified about in -- in direct?

13 A. Yes. I'm sure -- yes, a document exists. What exactly
14 that looks like at this moment in time, I would have to look.
15 Because the 1B descriptions and how they look from ECS days are
16 different than what the 1B descriptions and how they look in
17 SENTINEL, which is our current system. And so I would -- I would
18 have to look at it.

19 Q. Okay. Would looking at the actual box of physical
20 evidence help you?

21 A. Not necessarily.

22 Q. Okay. Why not?

23 A. Because I would need -- I would want to see the -- what

1 the description and the chain of custody looks like.

2 Q. Okay. Where can we find the description? I'll be honest
3 with you, I have looked high and low. What kind of document would
4 contain the description?

5 A. Other than saying it's a 1B description, I really don't
6 know how to describe it. So I know that -- I'm trying to think where
7 that would be. Again, it's an internal printout. It has the 1B
8 description on it. And then typically the chain of custody with the
9 signatures is attached to that front internal kind of working
10 document.

11 Q. Okay. We'll come back to that. Maybe we can find an
12 example.

13 A. Okay.

14 Q. All right. So let's look at this document that's on the
15 left-hand side of the screen. I would -- yesterday I would have
16 zoomed in for you, but today I've been warned not to zoom in, so I'm
17 not going to do that.

18 The handwriting at the top is 1A 194, which is what you just
19 told us -- how we know this is a 1A cover sheet, right?

20 A. Yes.

21 Q. Okay. And I'll try to do this the easy way but we can
22 also do it more extensively. The 1A 194 itself, that piece of -- of
23 evidence is the spiral-bound inventory, right?

1 A. The 1A 194 description says that it's an inventory of
2 items. And it -- I believe it also says that there's a translation
3 in it.

4 Q. And that's what you called on direct examination the bound
5 book?

6 A. Yes. The spiral bound, yes.

7 Q. Yes, okay. And then there's a case number on here, right?

8 A. Yes, there is.

9 Q. Okay. And then three lines down there's "serial number of
10 originating document." What is that? What is the serial -- what is
11 a serial number of an originating document?

12 A. That would be the serial which describes this 1A.

13 Q. All right. I am -- I apologize for my ignorance, but I
14 need more than repeating the words.

15 What is the -- what is an originating document?

16 A. In this scenario, there's an EC. And that EC has a serial
17 number ----

18 Q. Okay.

19 A. ---- that is whatever that says. I can't read it.

20 LDC [MR. CONNELL]: Your Honor, could we ----

21 MJ [Col McCALL]: I ----

22 LDC [MR. CONNELL]: May I have permission to zoom in?

23 MJ [Col McCALL]: You can zoom in. Just make it about the

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1 same size as a normal document that's a one-page. That's fine.

2 LDC [MR. CONNELL]: Okay. Thank you.

3 Q. To me, it looks like 5283.

4 A. It does look that way.

5 Q. Okay. So what is -- does that shed any light on what is
6 the serial number of originating document?

7 A. So -- okay. So there's the case file up here at the top,
8 right?

9 Q. Yep.

10 A. 315N-NY-280350-2004-NEW.

11 Q. Okay.

12 A. And then this line right here where it says "serial number
13 of originating document" ----

14 Q. Yes.

15 A. So you take this file number and you add that serial
16 number, that gives you the document which describes what this 1A is.

17 Q. Okay. So the number of the EC that -- because you said
18 the originating document was an EC, right?

19 A. Yes.

20 Q. The number of the EC should be something like
21 315N-NY-280350-2004-5283?

22 A. You forgot the dash NEW.

23 Q. Oh, dash NEW.

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1 A. That's on here.

2 Q. Yes, yes.

3 A. Yep.

4 Q. I thought that might replace the dash NEW. That's
5 like ----

6 A. No. That's the entire file number.

7 Q. Dash NEW-5283.

8 A. Serial 5283.

9 Q. Serial 5283. So that's how -- there's an EC somewhere
10 that has that number on it and that's the originating document?

11 A. Yes.

12 Q. Okay. All right. And then it says -- okay. That was
13 helpful. Thank you for that.

14  Do you
15 see that?

16 A. I do.

17 Q. Is that from whom the -- this inventory, this 1A 194 was
18 received?

19 A. It's ----

20 Q. Is that what "from" means?

21 A. It -- this "from" on here?

22 Q. Yes.

23 A. So yes, there's -- if you -- when you look in this

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1 document, there's -- there are stamps. And I -- I'd have to look in
2 here, but there is something in here that indicates [REDACTED]

3 [REDACTED]

4 Q. Okay. Not the UAE Central Bank?

5 A. That's correct.

6 Q. Okay. Is the UAE Central Bank part [REDACTED]

7 [REDACTED]

8 A. I -- I can't get into ----

9 Q. Not to your knowledge?

10 A. Not to my knowledge.

11 Q. As far as you know, they're not part [REDACTED]?

12 A. Correct.

13 Q. Okay. So [REDACTED] was not the business
14 custodian of these documents, right?

15 A. I -- I can't say what [REDACTED] did in this
16 scenario, that -- so there's a whole inventory of documents.

17 There's -- this was a court -- there are stamps in there from several
18 different components. There was -- but I -- I can't speak to who was
19 in the custody of what.

20 Q. Okay. And can you speak to how [REDACTED]
21 got these documents to turn them over to Special Agent Piro? Do you
22 know that?

23 A. No, I do not.

1 Q. Okay. When did you first see the set of documents which
2 are contained in 1B 2046?

3 A. I -- I can't recall.

4 Q. Okay. But not -- you said you didn't meet Special Agent
5 Piro in -- in UAE, so it would have been in June or later?

6 A. I -- I'm going to say yes to June or later. I don't
7 recall when I saw the specific documents that were contained in 1B
8 2046.

9 Q. All right. So this document says that -- just to be
10 clear, the one thing that we didn't cover was the date received,
11 that Special Agent Piro received these documents on 17 April 2002; is
12 that right?

13 A. Yes. That's what it -- in the bound booklet, that's
14 what's in the back of it.

15 Q. Okay. All right. So now I'd like to show you -- I'll
16 take this off. And I'd like to show you FEA -- excuse
17 me -- MEA-FIN-00001687, found in the record at AE 628AA (Gov)
18 Attachment EEEE. And I'm just going to do it this way.

19 LDC [MR. CONNELL]: This is not for display to the gallery.
20 May I have access to the document camera?

21 MJ [Col McCALL]: You may.

22 Perhaps you need to zoom out.

23 LDC [MR. CONNELL]: Yeah, zoom out. Thank you.

1 Q. Okay. I know it's not green anymore, but this is a chain
2 of custody document. And you see the FD-192 on the top of it?

3 A. I do.

4 Q. Okay. And does this appear to be the chain of custody
5 document for 1B 2046?

6 A. It has 1B 2046 at the top.

7 Q. Okay. So you told us about the chain of custody document.
8 Is this the 1B document you were talking about or is this just the
9 chain of custody for it?

10 A. That -- that's -- this appears to be just the chain. So
11 there's probably signatures down the page.

12 Q. Okay. And what is the relationship between 1B 2046 and
13 1A 194?

14 A. 1A 194 describes what was in -- or describes what is in 1B
15 2046.

16 Q. Okay. And I think we can make this a little bit easier if
17 I can have the assistance of the FBI. We have the physical evidence
18 here, and you can show us what you're talking about.

19 LDC [MR. CONNELL]: Your Honor, may I have permission to go to
20 the back table, put on some gloves, and show this item to the -- to
21 Ms. Waltz?

22 MJ [Col McCALL]: Go ahead.

23 LDC [MR. CONNELL]: Thank you.

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1 [Pause.]

2 LDC [MR. CONNELL]: Okay. Great.

3 Q. Ma'am, I'll represent to you that I have here -- I'm sorry
4 about that.

5 I'll represent to you that I have here a box of evidence
6 which is marked on the side 415A-NY-280350, 1B 2046. Does that seem
7 like the right document for 1B 2046?

8 A. Yes.

9 Q. Okay. I'm going to start out by displaying to you this
10 booklet -- this booklet with the spiral bound. All right? When you
11 talked about the bound book, is this the bound book?

12 A. When I talked about -- during my testimony?

13 Q. Yes, ma'am.

14 A. When I talked about the bound book, I was talking about
15 the book that was contained in 1A 194.

16 Q. Okay. And is this 1A 194?

17 A. No. I ----

18 Q. I can move it closer. I'm not trying to -- it's not a
19 vision check.

20 A. The front of them look the same. I would have to actually
21 look at it.

22 Q. Okay.

23 LDC [MR. CONNELL]: May I approach, Your Honor?

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1 MJ [Col McCALL]: You may.

2 UNIDENTIFIED SPEAKER: Gloves.

3 MJ [Col McCALL]: Yeah, gloves for the witness if she's going
4 to touch it.

5 WIT: I need gloves.

6 Thank you.

7 **[Pause.]**

8 Q. All right. Is this spiral bound book 1A 194?

9 A. No, it's not. 1A 194?

10 Q. Yes, that was the question.

11 A. Okay. It is not, no.

12 LDC [MR. CONNELL]: Your Honor, this is what I understand to
13 be 1B 2046. May I approach the witness and show her?

14 MJ [Col McCALL]: You may.

15 **[Pause.]**

16 A. Are you asking me to go through it?

17 Q. It's -- I know it's a little weird, but I have to return
18 to my microphone to answer to you.

19 A. I understand.

20 Q. I really just want to show it to you from -- from -- do
21 you need to go through it in detail to understand ----

22 A. I don't need to go through it in detail. I was just
23 asking if you wanted me to go through it.

44203

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1 Q. Will you look at it and see if you can satisfy yourself
2 that that's the documents that you testified on direct examination
3 as -- described as 1B 2046?

4 A. This -- this is 1B 2046. The reason I'm asking is because
5 I haven't gone through the entire contents of this 1B. So I don't
6 know if there's been any splits, if there's been any other kind of
7 changes in this. So that's the only reason I'm asking.

8 Q. Okay. And by -- by splits, you mean whether some
9 particular document was pulled out and put into a different 1B?

10 A. Yes.

11 Q. But in -- so while you can't say that's necessarily every
12 conceivable document in 2046, in general, that's is 1B 2046?

13 A. Generally speaking, this is 1B 2046.

14 Q. Okay.

15 LDC [MR. CONNELL]: May I approach?

16 MJ [Col McCALL]: You may.

17 **[Pause.]**

18 Q. Is 1A 194 kept in the evidence room?

19 A. 1A 194 is not kept in an evidence room. It is a -- it's a
20 copy that was provided to the FBI at -- at some point. So
21 there's -- the inventories in the -- so there's two separate bound
22 books. 1A 194 is a 1A that's maintained with other 1As.
23 There's -- so -- and all of those 1As are kept together in -- in a

1 separate location.

2 The booklet that is -- and so that one is a copy. The
3 booklet that's in with 1B 2046 is -- has the original stamps and
4 other items from -- from the UAE, all of those, embassy did
5 something. [REDACTED]

6 [REDACTED]

7 So they made some attempt to officially give that material
8 and turn it over to the U.S. Government.

9 Q. Okay.

10 A. So the 1A 194 is a copy that was signed by George Piro.
11 And that's not anything original. So exactly how that second one
12 with George's signature came into -- how exactly the transactions
13 that happened, he would have to speak to that. But that bound, the
14 little spiral booklet that's in 1A 194, is not an original and it is
15 a copy, and that's why it was put into that 1A.

16 Q. Okay. How did 1B 2046 that you testified about on direct
17 come into the possession of the United States?

18 A. I -- I didn't receive that, so I -- I can't testify to
19 that.

20 Q. Okay.

21 A. I didn't receive it from the -- from the
22 Emiratis -- right? -- from the UAE officials. I wasn't there for
23 that transaction, so...

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1 Q. Okay. So I'm going to return to FIN-00016874. And I'm
2 going to show you the -- which is the chain of custody for 1B 2046.

3 MJ [Col McCALL]: And do you need the document camera?

4 LDC [MR. CONNELL]: I do. I'm sorry, Your Honor.

5 MJ [Col McCALL]: No. I know -- I can see that it's lit up at
6 the podium, but it's ----

7 LDC [MR. CONNELL]: Right.

8 MJ [Col McCALL]: ---- not brought up for us. Okay.

9 LDC [MR. CONNELL]: Thank you, sir.

10 MJ [Col McCALL]: And, again, this is not display to the
11 gallery, correct?

12 LDC [MR. CONNELL]: Correct. It's LES.

13 Q. So can -- the first line of that green sheet lists -- does
14 that say Adam Drucker?

15 A. It does.

16 Q. And under "reason," it says "collected," right?

17 A. That's correct.

18 Q. And then the date it has is 6 April 2002. Do you see
19 that?

20 A. I do see that, yes.

21 Q. Okay. And looking at this green sheet, you would conclude
22 that Adam Drucker took possession of the documents in 1B 2046 on 6
23 April 2002; is that what this says?

44206

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1 A. That's what this document says.

2 Q. Okay. Do you know whether that's true?

3 A. You'd have -- I can't speak to that. I -- this isn't
4 my -- I didn't collect it from the UAE. I was not present for the
5 transaction. Adam Drucker would have to speak to that.

6 Q. Okay. Now, I'd like to show you the next page, which is
7 MEA-FIN-00016875. And this is a -- at least partially typed version
8 of this -- of this same document -- right? -- partially typed,
9 partially handwritten?

10 A. Yes.

11 Q. Okay. And there's a dotted line about a third of the way
12 down the page which says "comms." And does that stand for
13 "comments"?

14 A. I think it says "command."

15 Q. Command, okay. What would normally appear where the
16 redaction is under that document?

17 A. I -- I don't know.

18 Q. Okay. Did you yourself analyze the documents in 1B 2046
19 in 2002?

20 A. I don't have specific recollection of reviewing those. I
21 don't have specific recollection of reviewing those documents.

22 Q. Okay. I'm going to show you your slide deck, AE 885H at
23 page 13.

1 LDC [MR. CONNELL]: May I have access to the document camera?
2 This page is LES. It is not for display to the camera -- sorry -- to
3 the gallery. Excuse me.

4 MJ [Col McCALL]: All right. Go ahead.

5 Q. Okay. And you testified on direct examination that this
6 right-hand page is an English translation of a document which
7 memorializes three wire transfers to a person using the name Sabet in
8 Hamburg. Do you recall?

9 A. I recall reading from the document during my -- reading
10 these. Exactly which lines I read during my direct testimony, I
11 can't recall. And it's very small right here.

12 Q. Okay.

13 LDC [MR. CONNELL]: May I have permission to zoom?

14 MJ [Col McCALL]: You may.

15 LDC [MR. CONNELL]: To basically normal size.

16 Q. Does that help you understand that those document three
17 wire transfers to a person using the name Sabet in Hamburg?

18 A. Yes.

19 Q. Okay. And, of course, that was -- in 2002/2003 time
20 frame, that was directly relevant to the Moussaoui investigation?

21 A. Yes, it was.

22 Q. Okay. And Special Agent Zebley was the case agent for the
23 Germany or Ramzi Binalshibh portion of the investigation?

1 A. He was one of them.

2 Q. Okay. Do you know how this information got to Special
3 Agent Zebley?

4 A. The booklet?

5 Q. The money transfer documents described in -- in the
6 document.

7 A. I -- I don't know.

8 Q. Okay. Do you know who actually gave these documents to
9 the FBI in April of 2002?

10 A. I wasn't there.

11 Q. Wouldn't there normally be a document that -- an FBI
12 document that describes who gave these documents to the FBI? Isn't
13 that the purpose of a chain of custody?

14 A. Well, the -- I mean, the chain -- the purpose -- the chain
15 of custody is the actual signatures. So that is what we refer to as
16 the chain of custody, that -- so any type of EC, 302, any
17 other -- insert whatever other type of document that exists that
18 describes something isn't -- I wouldn't say is a chain of custody.

19 Q. Okay. But shouldn't a 302 or an EC exist about how this
20 evidence came into the custody of the FBI?

21 A. Normally an EC, a 302, some type of document is written.

22 Q. So, in fact, at the beginning of your testimony, you
23 testified that it is important to document when something came into

1 the custody of the FBI and from whom. Do you recall?

2 A. I do recall. I said that it was important to do so,
3 obviously, but sometimes that doesn't -- it doesn't always happen.
4 And in this instance we've got a -- there is a -- there is an item
5 actually with the 1B that describes who it came from. And there are,
6 again, the stamps across the bottom. So there is something that
7 describes the acquisition of it.

8 Q. Why is there no 302 or EC that describes where the FBI got
9 it?

10 A. I -- I wasn't a party to that transaction. I was not
11 there when the U.S. Government, when the FBI took possession of the
12 documents in 1B 2046. The exact interactions, I did not do that.
13 Therefore, I didn't start the chain of custody. Therefore, I would
14 not have written something that I wasn't a party to.

15 Q. Well, I understand you didn't write it, but you testified
16 extensively in your direct examination about the documents in 2046,
17 didn't you?

18 A. I -- yes, I mentioned them, of course.

19 Q. And before your testimony, how long did you spend
20 preparing for it?

21 A. I felt it was ----

22 Q. Long time?

23 A. It was quite some time. We had a lot of documents that

1 went into the PowerPoint.

2 Q. To be honest, it showed. I mean, you were very well
3 prepared.

4 In the course of that preparation, did you check to see if
5 there was any FBI document that said where the FBI got the
6 information?

7 A. During the course of my preparation for my testimony, I
8 did not look for an EC and/or a 302 specifically regarding 1B 2046.
9 I am aware that items are in evidence, and I also know that
10 subsequent to receiving those items, that we made significant
11 attempts to get those documents properly certified by the financial
12 institutions so that -- and they represented that that was -- those
13 copies were true and accurate.

14 So I -- the originals -- with respect to the acquisition of
15 the original documents, I did not look for an EC or a 302 during my
16 preparation for my testimony on that document -- on that 1B.

17 LDC [MR. CONNELL]: Your Honor, I don't know what your
18 intentions for the evening are, but if you're going to break, now's a
19 good time.

20 MJ [Col McCALL]: Perfect. I was going to ask -- I was
21 waiting to see if you were moving on to a new area.

22 All right. So we will go ahead -- well, I do want to -- I
23 have some housekeeping matters, so don't get too excited, but we will

1 go ahead and let Supervisory Intelligence Analyst Waltz leave.

2 So, again, just as I cautioned you when we broke for lunch,
3 please don't discuss your testimony with anyone, to include counsel
4 for any of the parties, but you can go ahead and leave the courtroom
5 at this time. I anticipate we will start again tomorrow at 0900 with
6 your testimony.

7 WIT: Okay. Thank you.

8 **[The witness was warned, was temporarily excused, and withdrew from**
9 **the courtroom.]**

10 MJ [Col McCALL]: All right. The housekeeping matter I
11 have -- and you can go ahead and kind of wrap up, Mr. Connell. I'll
12 just talk while you're wrapping up your stuff that you have at the
13 podium.

14 So I'm still interested in filling that fifth week that we
15 were originally going to have the prior Camp V -- Camp VII commander
16 testify. So I know Mr. Connell had suggested some names yesterday.
17 It seems like SG1 would potentially be a useful witness. Perhaps
18 also Ms. Jocys seems like a potential useful witness.

19 So I'm just giving the parties notice of that. I haven't
20 made any decision, and who knows if they're even available. But
21 confer tonight. Think about it. And then tomorrow I'd like to hear
22 argument why, you know, they should be produced or not produced
23 potentially for the fifth week. At that point we can look and see if

1 they are even available.

2 I don't believe any of the government, I know
3 that -- Mr. Trivett, you had mentioned, I believe it was on Sunday at
4 the 802, that there weren't really many other government witnesses or
5 witnesses that had been agreed to.

6 Obviously, I understand the government's position on the
7 timing of Dr. Welner. I understand that. Dr. Jessen it doesn't seem
8 like is available. And I know there's also Lieutenant -- retired
9 Lieutenant Commander Hanrahan, I believe, but ----

10 LDC [MR. CONNELL]: Sir, we've worked out scheduling for
11 Commander Hanrahan. We're just waiting for funding from the CA but
12 we've given dates to the government.

13 MJ [Col McCALL]: Okay. Perfect. And so perfect segue
14 into -- my next point was, next week I would like to discuss, let's
15 say on a week from tomorrow, so not -- not tomorrow, Wednesday, but
16 next week Wednesday, let's be prepared to discuss the witnesses for
17 the July/August session.

18 Again, given the state where we are starting to run out of
19 the witnesses that the government wants for their response to the
20 motions to suppress or the witnesses that the government has agreed
21 to produce and we can start to line those up. Because, again, I
22 mean, that session is going to be on us before we know it seeing how
23 we are down here in long days in court.

1 All right. Any our housekeeping matters to take up?

2 One other housekeeping matter. I know, Mr. Connell, that
3 the Ali team had requested that I do the site visits, and it seems
4 like the government was not opposed to that.

5 I'm still -- I think it would be useful. I'm trying to
6 decide what type of procedure to put in place. I'm inclined -- so
7 I've done views twice before as counsel with members where we
8 had -- we were on the record and we had the court reporters go with
9 handheld recording devices. No one was allowed to talk.

10 I suppose we could do something similar. I'm trying to
11 think through how exactly logistically we should do it. I don't want
12 to go to the site and have a lecture and have things on the record.

13 My inclination would be that before we go, we take a little
14 bit of time. We have photographs of the locations. Counsel could
15 point out what they want me to look at at the location. And then
16 when we go, there's just no speaking. It protects the record. It
17 allows me to already have an idea on what I should be looking for,
18 and -- but then I accomplish actually seeing the place in person.

19 LDC [MR. CONNELL]: We can confer, sir.

20 MJ [Col McCALL]: All right. So, again, those are just
21 inclinations. I'm thinking it through. I'm open to suggestions from
22 counsel. Again, we can do it this session if we don't fill up that
23 fifth week or we can do it at a later session.

1 All right. Any -- any other housekeeping matters to just
2 take up?

3 MTC [MR. TRIVETT]: I had a few, sir. I should have announced
4 that Ms. Nicole Tate and Master Sergeant Victoria Lindsay were
5 present in the RHR shortly after we began and for most of the
6 afternoon.

7 We did start to look into some of the other names that were
8 mentioned. Ali Soufan is not available, but we -- we have been in
9 contact with Mr. Pat D'Amuro, as well as Joan-Marie Turchiano, and
10 we're waiting responses back from them. I don't know that we've
11 reached out to Maria Jocys yet, but I can check.

12 MJ [Col McCALL]: If you do check out with Jocys and SG1 just
13 to see their availability. Again, I know these are still -- there's
14 a question on whether they even will be produced, but I'm trying to
15 get ahead of the curve here just with giving time for the parties to
16 prepare.

17 Go ahead.

18 DMTC [MR. DYKSTRA]: Yes, Your Honor. I just want to put on
19 the record that reaching out to Interrogator SG1 carries with it a
20 substantial amount of lead time, so I don't know if that is even
21 going to be a potential for this session.

22 MJ [Col McCALL]: I anticipated that, which is why I'm
23 bringing it up now. So if it is too problematic, I understand, but

1 let's see.

2 All right. What else? Any other housekeeping?

3 All right. It seems like we're still on track to wrap up
4 with Supervisory Intelligence Analyst Waltz this week. Obviously, we
5 can adjust the schedule as needed to try to accomplish that.

6 All right. Thank you for your work today.

7 Commission's in recess.

8 **[The R.M.C. 803 session recessed at 1738, 16 April 2024.]**

9 **[END OF PAGE]**