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1 [The R.M.C. 803 session was called to order at 1351,
2 28 January 2020.]

3 MJ [Col COHEN]: The military commission is called to
4 order.

5 I appreciate the parties' indulgence. I had an
6 ex parte with Mr. Mohammad's team to address an issue. With
7 their permission -- like I said, it's an ex parte, so I won't
8 go into the contents of it, but with their permission, then I
9 had to go out and get the government to continue to discuss
10 that.

11 My understanding, Counsel, Mr. Nevin, General Martins,
12 is that that issue has been satisfactorily resolved; is that
13 correct?

14 CDC [MR. NEVIN]: Yes, sir.

15 MJ [Col COHEN]: Excellent. Perfect.

16 TC [MR. GROHARING]: Yes, sir.

17 MJ [Col COHEN]: Thank you, Mr. Groharing. I appreciate
18 that. Okay.

19 Then that issue having been resolved, I think we're
20 ready to continue your -- your testimony. I will note that
21 Mr. Mohammad is here, Mr. Bin'Attash is now here, and
22 Mr. Binalshibh is here. Mr. Ali and Mr. al Hawsawi are still
23 absent.

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1 Okay. Please call the witness.

2 [The witness resumed the witness stand.]

3 MJ [Col COHEN]: Sir, please have a seat. Thank you for
4 your patience.

5 WIT: Thank you.

6 MJ [Col COHEN]: Mr. Nevin, your witness.

7 CDC [MR. NEVIN]: Great. Thank you, Your Honor.

8 DIRECT EXAMINATION CONTINUED

9 Questions by the Civilian Defense Counsel [MR. NEVIN]:

10 Q. Sir, do you have the key there?

11 A. I do.

12 Q. If you need to use it, I'm going to ask you a question
13 about Z9A.

14 A. Let me look at it.

15 Q. Okay.

16 A. Digging for my glasses. Roger.

17 Q. Got it?

18 A. Uh-huh.

19 Q. So my question for you -- and it probably would be
20 best to answer it with a simple yes or no -- is, was Z9A ever
21 present at Location 4?

22 A. Not to my knowledge, no.

23 Q. All right. That settles that issue.

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1 MJ [Col COHEN]: All right.

2 Q. Thank you for that.

3 I also -- I'm going to direct your attention to just a
4 couple of pages of -- and I'm -- and I think it's entirely
5 possible that we looked at this previously, that you'll
6 recognize it. It seems to be a cable. I'll show you the
7 first page of it.

8 CDC [MR. NEVIN]: And, Your Honor, this is page 6 of
9 AE 630U Attachment 0, like Oscar. It is a FOIA-released
10 document. The marking's at the top.

11 MJ [Col COHEN]: I recognize those markings. You may
12 publish.

13 CDC [MR. NEVIN]: Great. Thank you.

14 Q. And, sir, this is a -- this is a communication of
15 20 March 2003, and take what time you need to review that.

16 Good? All right.

17 So I'm going to direct your attention to the third
18 page of the document and a paragraph marked 8.B., and it --
19 obviously 8 -- paragraph 8 refers to the HVT psychologist's
20 comments. And would you have been the HVT psychologist on --
21 on 20 March?

22 A. 2003?

23 Q. 2003.

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1 A. No.

2 Q. Okay. So in paragraph B., the HVT psychologist --
3 and -- and do you know who the HVT psychologist was on that
4 day?

5 A. I do.

6 Q. Could you -- could you say the UFI or is it -- go
7 ahead. Can you -- can you tell us who?

8 A. I'll have to look at it.

9 Q. Oh. Okay.

10 [Counsel conferred.]

11 Q. And it says that, "Subject" -- and the subject refers
12 to Mr. Mohammad -- "began to whimper, whine, and moan as soon
13 as security staff took control of him and began leading him to
14 the waterboard room, and for a few moments after assuming his
15 position on the waterboard he appeared somewhat frantic" --
16 and this continues onto the next page, page 9 in the lower
17 right-hand corner -- "and began to speak rapidly and
18 acknowledge that he had lied about a number of details related
19 to Jafar al Tayyar."

20 So I guess my question is, do you remember this, this
21 incident?

22 A. I don't remember this specific incident. But if that
23 particular person wrote that, I have every confidence that

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1 it's accurate.

2 Q. All right. Thank you.

3 Dr. Mitchell, in your book at page 178 -- do you have
4 it in front of you, the book?

5 A. Not yet, but I will get it. I'm there.

6 Q. So on -- on this page, you wrote that Mr. Mohammad
7 told you that, "Allah has given -- Allah has given true
8 Muslims their" -- referring to his brand of Islam -- "dominion
9 over the world and a holy mandate to invite infidels to
10 convert to Islam or submit to subjugation. If they refuse,
11 true Muslims are mandated by Allah to fight an unending war
12 until all unbelievers have been converted, subjugated, or
13 slaughtered." And do you -- do you stand by that?

14 A. I do.

15 Q. Okay. And similarly on page 183 you wrote that -- you
16 wrote that his -- he said, "His brothers will not stop until
17 the entire world lives under sharia law." He says, "They
18 cannot. They've been commanded by Allah to kill, convert, or
19 enslave everyone to create a global caliphate." Do you see
20 that language?

21 A. Was that on 183, you say?

22 Q. Yes, sir.

23 A. Can you kind of point me to -- oh, I see it. It's

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1 down at the bottom. I got it. Yes.

2 Q. Okay. Do you stand by that?

3 A. Yes.

4 Q. And then finally on page 218, that, "The conquest and
5 slaughter of Allah's enemies, especially those who are
6 helpless to prevent it, is a blissful act of worship done for
7 the love of their God, not -- not out of hatred for their
8 enemies." And do you stand by that?

9 A. I do.

10 Q. Okay. So the reason I ask is that we've been provided
11 with many cables that contain what are described as statements
12 attributed to Mr. Mohammad.

13 A. Uh-huh.

14 Q. And we don't see those -- we don't see statements that
15 contain references to slaughtering everyone who won't convert
16 to Islam. We don't see those in the materials that have been
17 provided to us. So my -- my question for you is: Where did
18 Mr. Mohammad and when did Mr. Mohammad say these things to
19 you?

20 A. It was there in the "How's it going" sessions that
21 would have ordinarily not generated an intel report or
22 generated a report unless there was something of significance
23 coming out of it. And a discussion of his religion really

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1 isn't -- you know, it wasn't of significance.

2 So it would have been from sometime around a few weeks
3 after he got out of EITs up until the last time I saw him in
4 2006.

5 Q. I didn't hear the word you used before "sessions," the
6 adjective. Was it -- did you say -- I thought you said ----

7 A. I said, "How's it going?"

8 Q. ---- how's it going?

9 A. But basically it's just maintenance visits. You know,
10 we would stop by and just chat with him about whatever he had
11 on his mind, and sometimes he would proselytize and tell me
12 about his religion and sometimes he wouldn't.

13 Q. And so you would not write a report about that?

14 A. I wasn't required to and I wouldn't.

15 Q. So Mr. Mohammad tells you that he and other people
16 engaged in jihad want to kill everyone on earth who won't
17 become a Muslim, and you don't report that to anyone?

18 A. He's pretty clear about that, and so is the
19 religion ----

20 Q. No, no ----

21 A. ---- so there's no requirement that I report that sort
22 of stuff. So no.

23 Q. Oh. Okay. Well, let me -- let me just direct your

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1 attention to page -- this is the MEA-STA-000198. This is
2 AE 630U Attachment FF. And this is marked -- it's marked FOR
3 OFFICIAL USE ONLY but it's unclassified.

4 CDC [MR. NEVIN]: May I display, Your Honor?

5 MJ [Col COHEN]: You may. If it's UNCLASS//FOUO, you may.

6 CDC [MR. NEVIN]: Yes, sir.

7 Q. So, Dr. Mitchell, I'll just represent to you -- I
8 think I better just represent to you that this is -- as you
9 see is -- in the lower right-hand corner, the prefix is STA,
10 and we are given to understand that that refers to statements.
11 And I'm -- I've actually drawn a box around just a couple of
12 portions of this. And I point out to you that Mr. Mohammad is
13 quoted here as -- or not quoted, but rather is reported to be
14 saying that -- that al Qaeda is committed to eliminating U.S.
15 support for Israel and removing U.S. military presence from
16 the Arabian Peninsula, and he added a third goal, which was
17 not explicitly stated previously, referring to another
18 conversation, the elimination of U.S. support for corrupt
19 regimes of the Arabian Peninsula such as Saudi Arabia, Yemen,
20 Egypt, Kuwait, and United Arab Emirates. So Mr. Mohammad's --
21 first of all, were you present for this interview of
22 Mr. Mohammad?

23 A. If it's a press conference, I certainly wouldn't have

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1 been present.

2 Q. Yeah. No, this is -- this refers to statements that
3 he made in a black site.

4 A. I remember him making those kind of statements. I
5 don't think I was present for this particular thing.

6 Q. Oh, okay.

7 A. That's not inconsistent with what I wrote.

8 Q. Okay. He also said that if those three goals were
9 met -- were met, al Qaeda would no longer have a disagreement
10 with the United States. He pointed out that he didn't hate
11 the United States and he felt the media misrepresented
12 al Qaeda's interests when they state that al Qaeda is
13 interested in killing U.S. citizens just for the sake -- sake
14 of destroying the infidels. al Qaeda fights invaders, not
15 non-Muslims; therefore, if someone occupies Muslim land, they
16 have the right to fight against that.

17 So that is inconsistent with what you wrote in your
18 book.

19 A. It is ----

20 Q. Okay.

21 A. ---- but sometimes people say inconsistent things.

22 Q. Ah. Uh-huh. And when -- it is true also that this --
23 this kind of statement is not included in your book?

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1 A. No.

2 Q. And I'll direct you also to MEA-STA-47. This is
3 AE 630U Attachment Y and page 47. And just direct your
4 attention to the -- this language, a sentence that begins --
5 and it's about halfway through the last paragraph -- last --
6 last paragraph on this page. It says, "If you're serious
7 about thwarting any attack against U.S. interests, study your
8 political agenda that causes sorrow for Muslims and study the
9 Islamic movements that react to this agenda" and -- and it
10 goes on to say, "If you're serious about stopping the
11 bloodbath and stopping the killing of innocent American people
12 and the killing of your men, women, and children, then be
13 serious about stopping the killing of innocent people in
14 Palestine by your strongest Middle East ally, Israel."

15 And turning it over to the next page, which would be
16 page 48, the remarks continue. "Do not create" ----

17 TC [MR. GROHARING]: Objection, Your Honor. Relevance?

18 MJ [Col COHEN]: Counsel, where are you going with this?

19 CDC [MR. NEVIN]: Bias.

20 MJ [Col COHEN]: Okay. I ----

21 CDC [MR. NEVIN]: I have one more document to review, so
22 I'm not ----

23 MJ [Col COHEN]: All right. I -- I -- I see generally the

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1 fact that he chose to include some things and not others in
2 his book, going to 608C; but reading all of the documents, I
3 guess that's the question. Are -- do we need to read all the
4 documents or ask him questions about whether or not he
5 included certain types of information in there?

6 CDC [MR. NEVIN]: Well, I -- I can try to paraphrase it,
7 if that's what the military judge is saying.

8 MJ [Col COHEN]: That would be very helpful for all the
9 parties. Like I said, and then if -- if it's -- if there's
10 something specific that -- that -- that the parties need or --
11 like I said, the parties are always welcome to take me up on
12 just filing the -- if the idea is to let the public read this
13 stuff, then if it's unclassified, file an unclassified
14 attachment to a motion. And then if there's no reason why it
15 can't be put up on the website, I will be involved in making
16 sure that it gets up on the website.

17 CDC [MR. NEVIN]: I just want -- I just really want to
18 make the point ----

19 MJ [Col COHEN]: Okay.

20 CDC [MR. NEVIN]: ---- I mean, I literally was being as
21 up-front as I can be when I say what the relevance was for me,
22 and I just want to make the point with ----

23 MJ [Col COHEN]: Exactly.

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1 CDC [MR. NEVIN]: ---- Dr. Jessen. And I'll do it more
2 efficiently.

3 MJ [Col COHEN]: Okay. Thank you.

4 CDC [MR. NEVIN]: Yeah.

5 Q. And then just later on that page, perhaps the whole
6 idea is summed up, "If you're serious about stopping the
7 operations, look for mistakes committed by your politicians in
8 the Middle East." And those are -- well, is that -- were you
9 present when he made that statement?

10 A. No, but he -- he's made similar kind of statements.
11 The main point -- his main point is he wants to frighten the
12 American people.

13 Q. My -- my question was just, were you present?

14 A. Okay. So ----

15 Q. And I believe the answer is no?

16 A. The answer is no.

17 Q. Okay. And finally, page 2315 of the same -- this is
18 STA-2315. It's AE 630U Attachment JJ, and let me direct your
19 attention -- and I -- I have -- unfortunately my presentation
20 copy has a box around a paragraph. And let me paraphrase this
21 by saying that Mr. Mohammad was complaining about western
22 powers colonizing, plundering Muslim lands, and that he had --
23 had seen this at work while he was working in the Qatari

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1 government. That in the next paragraph, a complaint about
2 private U.S. companies working for Muslim governments to
3 exploit oil resources and that he explains in the next-to-last
4 paragraph that "People who start in on jihad for unjust
5 reasons are condemned to hell."

6 And so again, my question for you is, looking at
7 this -- at this report, were you -- do you recall being
8 present when this particular statement was made?

9 A. No.

10 Q. Okay. And thank you for looking at those. This,
11 though, to ask the question a different way, was a theme that
12 Mr. Mohammad returned to many times; that he felt that the
13 United States and other western powers had acted wrongly with
14 respect to the people in the Middle East. Isn't that true?

15 A. That he returned to the theme many times?

16 Q. Yes.

17 A. I saw three instances in -- that he returned to the
18 theme.

19 Q. Okay. And are these -- is this the first time you've
20 ever seen reference to these themes?

21 A. It's the first time I've seen those documents, but
22 I've heard these themes.

23 Q. Okay. That was what I was asking.

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1 And, sir, this is -- Mr. Mohammad is not the only
2 person who has articulated these themes. Many other
3 commentators and scholars -- I'm thinking of Mike ----

4 CDC [MR. NEVIN]: Sorry.

5 TC [MR. GROHARING]: I'm just waiting for you to finish
6 the question.

7 CDC [MR. NEVIN]: Okay.

8 Q. I'm thinking of Michael Scheuer, who wrote a -- who is
9 a retired CIA agent who wrote a book called *Imperial Hubris*.
10 I'm thinking of Dr. William Polk, who has written a book that
11 describes the thousand-year war between the Muslim south and
12 the global north. Graham Fuller, *A World Without Islam*.
13 There are many, many others that talk about this.

14 These kinds of sentiments are out there in the public,
15 are they not?

16 TC [MR. GROHARING]: Objection, Your Honor, relevance.

17 MJ [Co] COHEN: What is the relevance, Counsel?

18 CDC [MR. NEVIN]: Well, it's -- again it goes to bias.

19 MJ [Co] COHEN: How so? I mean, I understand with
20 respect to what he chose to write about the things that KSM
21 said. I get that.

22 CDC [MR. NEVIN]: Yeah.

23 MJ [Co] COHEN: But the fact that there may be other

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1 people -- because -- in other words, there are those who are
2 pro-Israel ----

3 CDC [MR. NEVIN]: Yeah.

4 MJ [Co] COHEN: ---- and they can do no wrong. There are
5 those that are anti-Israel, and they can do no right, you
6 know, for example. What fact of consequence is that? I mean,
7 how is that -- how is that bias on his part?

8 CDC [MR. NEVIN]: Could I address that outside the
9 presence of the witness, please?

10 MJ [Co] COHEN: Sure.

11 Sir, if you'd like to step down just for a moment.

12 CDC [MR. NEVIN]: Thank you, Your Honor.

13 [The witness was temporarily excused and withdrew from the
14 courtroom.]

15 MJ [Co] COHEN: The witness has departed. Counsel?

16 CDC [MR. NEVIN]: Your Honor, the witness has written in
17 his book, as he explained, these extremely -- these extremely
18 volatile -- as attributed, these extremely -- is there a
19 problem?

20 [Earthquake.]

21 ADC [MS. RADOSTITZ]: It's an earthquake.

22 CDC [MR. NEVIN]: Oh.

23 [Counsel conferred.]

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1 ADC [MS. RADOSTITZ]: We should get in doors.

2 MJ [Col COHEN]: Well, actually, you would get underneath
3 your desk is what you would do.

4 ADC [MS. RADOSTITZ]: Right.

5 CDC [MR. NEVIN]: I remember that from the '50s.

6 MJ [Col COHEN]: Yeah, running out of the building,
7 getting under your desk would be the -- like I said, if anyone
8 wants to get under their desk right this second, they're
9 welcome to do so. But that would be the correct thing to do.
10 The idea is to prevent stuff from falling on top of you.

11 ADC [MS. RADOSTITZ]: It's very weird.

12 MJ [Col COHEN]: All right. I think we are --

13 CDC [MR. NEVIN]: It seems to have stopped.

14 MJ [Col COHEN]: I think -- whether that was an initial or
15 an aftershock, we'll proceed for now.

16 CDC [MR. NEVIN]: Okay. Yeah. So the witness has written
17 these very volatile statements, and I want to confront him
18 with the fact that Mr. Mohammad said things that were -- that
19 were more accurate and more -- and frankly more benign
20 about -- about his, Mr. Mohammad's ----

21 MJ [Col COHEN]: Right.

22 CDC [MR. NEVIN]: ---- purpose.

23 MJ [Col COHEN]: I guess the question is -- is the

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1 scholarly issue.

2 CDC [MR. NEVIN]: Yes, sir.

3 MJ [Co] COHEN]: What does it matter whether people -- and
4 whether or not they are scholars or not scholars, or the fact
5 that people other than Mr. Mohammad may have these views,
6 is -- that's what I'm getting at.

7 CDC [MR. NEVIN]: Well, it only goes to the proposition
8 that these kinds of ideas are out there for anybody who wants
9 to look, and the -- the facts, the history, it's all there to
10 be reviewed. And -- and I suspect the witness has probably
11 reviewed some of these things, and I think if that's the case,
12 it makes more strongly the argument that the absence of this
13 kind of -- putting -- remove -- not -- not having any kind of
14 acknowledgment of these more nuanced views in his book shows
15 something about his bias.

16 And he is, as it stands now, is a major reporter about
17 the events in -- at Location 4 and Location 7 and -- and 8,
18 where Mr. Mohammad was -- was ----

19 MJ [Co] COHEN]: So I'm going to sustain on the grounds of
20 scholarly articles. If you want to ask him what probably
21 would be the more pertinent question as to, in light of the
22 fact that Mr. Mohammad had these other discussions, why he
23 didn't discuss those and just chose to use the one, that goes

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1 to bias, those kinds of things. That's a great 608 question.

2 But how many scholarly articles he's read, whether he
3 agrees or disagrees ----

4 CDC [MR. NEVIN]: Okay.

5 MJ [Col COHEN]: ---- with them doesn't change the fact
6 that he -- of the things that he was aware of that
7 Mr. Mohammad said, these are the ones that he chose -- chose
8 to write about.

9 CDC [MR. NEVIN]: And actually, Your Honor, I can -- I can
10 just -- I can simply end it there and ----

11 MJ [Col COHEN]: Okay.

12 CDC [MR. NEVIN]: And so I -- so I take your -- I
13 understand your -- your ruling.

14 MJ [Col COHEN]: Yeah. I'll sustain that objection as to
15 relevance. You understand I did allow you the opportunity,
16 though, to ask a different question?

17 CDC [MR. NEVIN]: I understand. Yes.

18 MJ [Col COHEN]: Okay. All right.

19 [Counsel conferred.]

20 MJ [Col COHEN]: Mr. Nevin, maybe you aren't done. We're
21 going to sit here. Are you done? Are you done?

22 CDC [MR. NEVIN]: Yes, sir. We can go back.

23 MJ [Col COHEN]: All right. She walked up, so that's why

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1 I was saying maybe you aren't. Let me bring the witness back
2 in.

3 [The witness resumed the witness stand.]

4 MJ [Col COHEN]: Dr. Mitchell, please take the stand.

5 WIT: Thank you.

6 DIRECT EXAMINATION CONTINUED

7 Questions by the Civilian Defense Counsel [MR. NEVIN]:

8 Q. So -- and this is actually my last question or series
9 of questions. I -- I noticed when you were testifying last
10 week that there was a moment when you seemed to be overcome by
11 emotion, and it was as if tears came to your eyes, although I
12 didn't actually see tears. But you seemed -- and I -- I will
13 say I have seen you on television a couple of times or -- and
14 on a radio program that I recall where you reacted in a
15 similar way. And that is a genuine emotion on your part, is
16 it not?

17 A. Yes, sir.

18 Q. Yeah. And the genuine emotion comes from your having
19 been put in the position of your country being under attack
20 and you being the one who was in a position to do something
21 about it. That -- that's -- that's part of that emotion, is
22 it not?

23 A. I wouldn't characterize it that way.

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1 Q. It's a -- your -- your emotion was a reaction to the
2 attack on your country?

3 A. My emotion was a reaction to the fact that there were
4 people who had to choose between burning to death or jumping
5 off the top of a tall building.

6 Q. Right.

7 A. That there were people who went into those buildings
8 trying to save lives and as a result died.

9 Q. Yeah.

10 A. Yeah. It's a genuine reaction, and anybody who
11 doesn't like it can kiss my ass.

12 Q. Well, no, I -- you will understand that I wasn't
13 accusing you of not having a genuine reaction, as I take it
14 that it's an extremely genuine reaction. But it is a reaction
15 that comes from people who are important to you or your
16 country or your fellow citizens ----

17 A. It's not about the country, it's about the people.

18 Q. It's about the people. And -- and it's about them
19 having been under attack?

20 A. It's about them having been killed ----

21 Q. Yes.

22 A. ---- them having been burned to death, them having
23 been crushed, them having to choose between crashing an

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1 airplane into a field or allowing it to crash into the Capitol
2 building ----

3 Q. And, sir ----

4 A. ---- and sacrificing their lives.

5 Q. And, sir, you know that -- that -- that people all
6 over the Middle East, have also died in gigantic numbers, and
7 so ----

8 TC [MR. GROHARING]: Objection, relevance.

9 MJ [Col COHEN]: Response?

10 CDC [MR. NEVIN]: Bias.

11 MJ [Col COHEN]: I'll allow it. Overruled.

12 Q. And you understand that someone would have a similar
13 reaction when confronted with that kind -- I mean, are you
14 familiar with the Iraq sanctions, with 500,000 children under
15 the age of five perishing in Iraq as a result of our economic
16 sanctions?

17 A. I'm familiar with all those things, but that -- that
18 does not -- that does not abrogate his responsibility for
19 voluntarily choosing to attack our country. He should have
20 stayed home and taken care of the problems over there. That's
21 what he should have tried to do.

22 Q. Well, I'm -- but, of course, I'm not asking you what
23 he should have done. I'm asking you, you had an -- you

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1 have -- you still have an acute emotional response to this.

2 A. I do.

3 Q. And he does, too. Can you grasp that?

4 A. I ----

5 TC [MR. GROHARING]: Objection.

6 A. You're not going to shame me into forgiving that guy.

7 Q. Well, I'm not asking you -- I'm not asking you to
8 forgive ----

9 MJ [Col COHEN]: One second.

10 Q. ---- anybody. I'm just asking you a question.

11 MJ [Col COHEN]: Counsel, where -- where are you going
12 with the questions? Because you're beyond what he thinks now
13 as to whether he thinks your client has a right to feel a
14 particular way.

15 CDC [MR. NEVIN]: Fair enough.

16 MJ [Col COHEN]: All right.

17 CDC [MR. NEVIN]: I have no further questions. Thank you
18 for answering my questions.

19 MJ [Col COHEN]: Sustained. All right.

20 Mr. Harrington, your witness.

21 CDC [MR. NEVIN]: Your Honor, may we have just a minute,
22 and I'll get the ----

23 MJ [Col COHEN]: That's fine. While Mr. Harrington is

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1 getting set up, you guys are welcome to clean the table behind
2 you.

3 WIT: Sorry about my outburst.

4 MJ [Col COHEN]: It -- it -- I do not take offense. And
5 if I took -- I would let you know, counsel -- counsel will --
6 will -- will verify that if I have a real issue with
7 something, I will definitely let you know.

8 WIT: Thank you, sir.

9 MJ [Col COHEN]: All right.

10 WIT: I just don't want to insult the court.

11 MJ [Col COHEN]: No offense taken.

12 Mr. Harrington, I notice that, as usual, you are going
13 to be efficient, apparently, because you are able to do it
14 with just the things in your hands.

15 LDC [MR. HARRINGTON]: We'll see, Judge. Hopefully that's
16 the case.

17 DIRECT EXAMINATION

18 Questions by the Learned Defense Counsel [MR. HARRINGTON]:

19 Q. Dr. Mitchell, my name is Jim Harrington. I'm one of
20 the lawyers for Ramzi Binalshibh. And you know
21 Mr. Binalshibh, do you not?

22 A. Ramzi, yes, sir.

23 Q. And you refer to him as Ramzi; is that right?

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1 A. I typically refer to him as Ramzi Binalshibh. I use
2 the whole name, but I can call him Ramzi or Binalshibh or
3 whatever you'd like me to.

4 Q. What did you call him in the black sites?

5 A. Ramzi.

6 Q. Okay. Now, you've been here for over a week
7 testifying and I just want to clarify something at the
8 beginning. Do you know what the issues are in this hearing?

9 A. I -- I have -- I suspect there are two issues based on
10 what I surmised was the way that the first counsel was framing
11 things, and that is that they would like to set aside the
12 things that the detainees said to the FBI's -- the FBI agents
13 who came who weren't familiar with it. And my guess from what
14 the last person was saying is that they would like to suggest
15 that the government engaged in some kind of outrageous
16 behavior.

17 Q. And as I've watched your -- your testimony, it appears
18 to me that words matter to you. Is that -- would that be
19 accurate?

20 A. Sometimes. Not always, but they matter when they
21 matter.

22 Q. I notice you corrected, for example, Mr. Connell when
23 he said "would it be fair to say" and you said would -- it be

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1 more accurate to say, would it be accurate to say, correct?

2 A. Correct, because to me fairness means there's some
3 equitable exchange. Is it 80 percent false and 20 percent
4 true or 20 percent true and 80 percent -- who knows. And
5 that's accurate ----

6 Q. And that's an example of how -- that you like to be
7 precise with words, correct?

8 A. I try to when I'm under oath.

9 Q. And not when you're under oath?

10 A. Well, obviously when you're writing a book, there's a
11 little bit of hyperbole that's involved because you're writing
12 the book to sell the book. You try to tell the truth, but you
13 try to package it in such a way that's interesting.

14 Q. Right. One of the terms that you've used many times
15 is you talked about fireside chats; is that right?

16 A. [Indicated].

17 Q. You did, correct? I'm just trying to lay a prefatory
18 question, that's all. You mentioned that several times,
19 correct?

20 A. Yes, sir.

21 Q. And where did that term come from?

22 A. I think it's a term we -- we -- we used during SERE
23 training, Dr. Jessen and I used during SERE training. It was

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1 just a hold-over. You know, because sometimes you'd want to
2 talk to a student that was having trouble and you wouldn't
3 want to take them out of role, so you would just have a chat
4 with him.

5 Q. Okay. I take it that goes back to the old Franklin
6 Roosevelt chats with the country that -- it's a comforting
7 type thing or something like that?

8 A. Yeah. I mean, I'm sure that's where I heard the term
9 the first time. I don't know that that's a -- I mean, we
10 didn't think of it as chatting with the country, we thought of
11 it as chatting with the detainee.

12 Q. Well, even I'm not old enough to have heard one of
13 those.

14 A. Well, you could have heard it on tape or something.

15 Q. Now, you made a statement a little earlier today, you
16 made a comment, you said you would have no incentive -- there
17 was no incentive to you to be deceptive about music or noise.
18 Do you recall saying that this morning?

19 A. Yes.

20 Q. Okay. Can you tell us what things there would be that
21 would give you an incentive to be deceptive?

22 A. I don't think there's anything. I was just saying
23 I've got nothing -- I've got no dog in this fight. It's up to

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1 the court now. I want to answer your questions truthfully and
2 honestly and as accurately as I can remember. And some things
3 I remember, some things I won't.

4 Q. All right. I'd like to ask you now a few questions
5 about your -- your company, MJA, if I could.

6 A. If I can answer them, I will.

7 Q. Okay. And this company was formed for a special
8 reason; is that right?

9 A. I have no idea what you mean by a special reason.

10 Q. Well, you anticipated hopefully getting a contract
11 with the CIA to perform a special service; is that right?

12 A. No.

13 Q. No? When you merged your original company into MJA,
14 that wasn't the goal of the company ----

15 A. No.

16 Q. ---- to get the contract? What was the goal of the
17 company?

18 A. We started the company to do APA-approved continuing
19 medical education for war fighters, for psychologists and
20 other folks, and to provide specialty training for people who
21 were doing hostage repatriation and that sort of stuff. So
22 the company existed. And then later, we bid on that contract.

23 Q. All right. And ultimately you got that contract,

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1 correct?

2 A. Yes, sir.

3 Q. And you were the only company that bid on it, I take
4 it; is that right? As far as you know?

5 A. I wouldn't know. You'd have to ask the agency.

6 Q. Okay. And when you got that contract, that was to
7 provide certain services to the CIA; is that right?

8 A. Yes.

9 Q. And were you the -- the president or the CEO of the
10 company?

11 A. I was the CEO.

12 Q. And did you have the responsibilities to manage the
13 company?

14 A. Yes.

15 Q. Okay.

16 A. Partially. I mean, we had a president, too.

17 Dr. Jessen was the president and the two of us, along with the
18 CFO, managed the company.

19 Q. You testified that at some point in time you got up to
20 approximately 100 people in your company; is that right?

21 A. Approximately, yes.

22 Q. And the company's existence went on for -- at least
23 with this contract, for approximately four years; is that

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1 right?

2 A. That's true.

3 Q. Okay. And you generated a significant amount of
4 revenue to operate that company over that period of time; is
5 that right?

6 A. Yes, sir.

7 Q. And were you responsible for hiring the people, the
8 employees?

9 A. Well, ultimately, I was for sure responsible, right?

10 Q. Did you have an administrative staff in your company?

11 A. Yes.

12 Q. Okay. And did -- what -- how would you let people
13 know that there were jobs available for this company?

14 A. Usually word of mouth.

15 Q. Okay. You didn't do any advertising for it, for jobs?

16 A. Not to -- not to my knowledge.

17 Q. All right. And where did these hundred people come
18 from?

19 A. Well, the -- the one -- let's say just the security
20 people. The agency's position on the security people was they
21 had to have had the job before. So the security folks were
22 usually drawn from the [REDACTED], right, and some
23 of those people were leaving and some of those people had had

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1 the job before. And so they heard about the opportunity and
2 came to work for us.

3 Q. All right. And you also -- in addition to the
4 security people, you -- you hired people for some other tasks
5 too; is that right?

6 A. Correct.

7 Q. Okay. Did -- and did you hire interrogators?

8 A. Yes.

9 Q. Okay. Where -- what was the source of those?

10 A. Well, we -- there were lots of leaks at the time, and
11 the agency told us to hire people that we trust. So we went
12 to special operators who we trusted, who we thought could be
13 trained and hired some of those. Then other people were
14 referred to us from within the building who -- who weren't
15 working for the agency at that particular time, we hired some
16 of those.

17 Q. All right. So the -- the CIA was really the -- at
18 least the connection to -- to the -- to the people that you
19 were hiring; is that right?

20 A. No, there were some from outside the CIA.

21 Q. All right. And who did the training for these people?

22 A. It depended on the task. The -- the training had to
23 be -- the agency maintained the responsibility for training

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1 and they had their own training managers, and so we had a
2 company training manager that was in the building with their
3 training manager and the two of them would put the course
4 together, depending on what kind of course it was. If it was
5 a security course, I'm not the guy to tell them how to move
6 prisoners and that sort of stuff, so they used their experts
7 to put that stuff together, and together the agency and my
8 company ran the training for that.

9 Q. Jointly, they ran it; is that right?

10 A. Yes.

11 Q. Would they do the training at the CIA, whatever office
12 it was?

13 A. I don't think they want me to tell you where they did
14 their training.

15 Q. Okay.

16 A. It was a CIA facility.

17 Q. Facility. You don't have to tell me the place.
18 That's fine.

19 A. Okay.

20 Q. And would that -- would the same thing apply for
21 debriefers?

22 A. I believe that [REDACTED] we were responsible for the
23 debriefer course as well.

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1 Q. And how about psychologists?

2 A. No. The -- we had line items for operational
3 psychologists. What -- one of them was a contractor for the
4 agency who came to work for us instead. Or I think it was a
5 contractor maybe or a half-time employee. I don't recall.
6 And the other one was a psychologist that was hired to do a
7 very specific task they wanted us to do that had to do with --
8 I don't know if I can talk about it, but it wasn't to do with
9 interrogations.

10 Q. Okay. Well, obviously you -- you had a block,
11 whatever the number was, of security people because they
12 were -- they were working, right? Did you have a block of --
13 of psychologists, too?

14 A. I think we had two.

15 Q. Just two? So that, based upon what you're saying, I
16 assume that they were not going out to places in the field; is
17 that right?

18 A. No, they weren't. They were -- they were not
19 associated with the interrogation program at all.

20 Q. Okay. So when you were back working in the black
21 sites and -- and working on the interrogation program, would
22 the people that were working there as interrogators and
23 debriefers and psychologists, would they be from the CIA, all

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1 of them?

2 A. What time period are you talking about?

3 Q. I'm talking about the -- the black site period, from
4 2003 up to 2006.

5 A. Well, it depends on whether or not the contract had
6 been let, you know. In -- up until the contract was let, they
7 all worked as contractors or employees for the CIA. After the
8 contract was let, they all worked technically for our company,
9 but they took their operational orders from the CIA. We gave
10 them no operational orders, made no decisions about how long
11 they were deployed, or what they would do when they were
12 deployed, or who they reported to. So we just supplied a
13 body, and the body went and did whatever the agency wanted
14 them to do.

15 Q. So when you went to a black site -- let's say
16 Location 4, right? -- and you were sent there to help out with
17 the interrogation of Mr. Binalshibh or -- or someone else, the
18 people that worked there with you in the interrogation process
19 were all CIA people? That's my question.

20 A. Yeah. At that point it was, yes.

21 Q. Okay. And were you aware at all of what background or
22 training these individual people had?

23 A. Not at the time. As I think I testified earlier, that

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1 I didn't even know they had ran an interrogation course until
2 I encountered the new sheriff at Site 4 and he told me they
3 had. I was -- I knew about the training for the guards
4 because they were police officers, and most of them had helped
5 us at Site 3, so -- and they had told us about how they had
6 been selected to do the job. So, I mean, they were literally
7 badged police officers, not security guards, right, who
8 happened to be functioning as guards for the black site.

9 Q. I believe you said that -- before you learned of the
10 CIA training program, that you and Dr. Jessen had put together
11 a training program yourself; is that right?

12 A. No, I didn't say that. I didn't even imply that.

13 Q. Okay. Be -- when you met the new sheriff and you
14 found out about this training program, you had already been
15 engaged in some interrogations in the black sites; isn't that
16 correct?

17 A. Yes.

18 Q. Okay. And there was staff there then, right?
19 Interrogators, debriefers? Yes?

20 A. Well, there was staff there.

21 Q. Okay. Where did they come from?

22 A. CIA.

23 Q. And when you went to work with these people, were they

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1 people you had known before; some of them, none of them?

2 A. I had known Dr. Jessen when he -- when I went to work
3 for him -- with him, but that would have been after August of
4 2002. When I deployed in April, I didn't know -- well, I knew
5 the operational psychologist that deployed with -- deployed
6 with them briefly, I'd met him once or twice before.

7 I didn't know any of the CIA targeters or analysts or
8 the chief of base or the physician or the nurses or the -- all
9 that other stuff. I didn't know any of those people.

10 Q. So when you worked -- started working alongside of
11 those people, it was you had to get to know each other as you
12 were working together, is that right, and evaluate each
13 other's abilities?

14 A. Well, I don't know about evaluating each other's
15 ability, but we got to know each other.

16 Q. Well, when you were working with someone doing an
17 interrogation and they were assisting you, obviously you were
18 making judgments about how good they were or how skilled they
19 were, were you not?

20 A. Well, when I went to work with them in April, I wasn't
21 doing interrogations.

22 Q. When did you do your first interrogation?

23 A. August of 2002.

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1 Q. Okay. And that's before you met the new sheriff,
2 isn't it?

3 A. Yes.

4 Q. Okay. So from that time up until the time that you
5 met the new sheriff, you were meeting other people from the
6 CIA, were you not?

7 A. Yes.

8 Q. Were you working with them?

9 A. Yes.

10 Q. Were you evaluating them as you worked with them?

11 A. I don't -- do you mean was I informally deciding
12 whether they were competent or incompetent or do you mean was
13 I writing a report on how competent they were? I don't know
14 what you mean by evaluating them.

15 Q. Right.

16 A. In any human interaction, I make a judgment about that
17 person, but I'm not evaluating them. I'm getting to know
18 them.

19 Q. All right. Well, I'm not going to fight you about the
20 word, but when I said that, I meant in an informal sense.

21 You were working with these people doing important
22 work. They were assisting you or doing important work with
23 you. You obviously are evaluating them just within yourself

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1 as to how good they were or whether they needed help or not.

2 You were not doing that?

3 A. No, I'm not arguing that point. I don't want to -- I
4 don't want to quibble about words except that, to me,
5 "evaluation" as a psychologist has a very specific meaning.
6 It's a term of art that we -- that requires a level of
7 analysis that isn't made when I'm doing an informal judgment
8 about whether or not somebody's competent.

9 Q. Were you making informal judgments about the
10 competency of these people?

11 A. You couldn't help it.

12 Q. Did you ever talk to any of them about it, make
13 suggestions to them about how to do things better, that kind
14 of thing?

15 A. I'm -- I'm lost in time.

16 Q. Yeah.

17 A. When are you talking about?

18 Q. I'm talking about ----

19 A. Are you talking about ----

20 Q. ---- the same time that I asked you about before, from
21 the time in August 2002 when you started until you met the new
22 sheriff.

23 A. We reviewed the procedures together, so, I mean, we --

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1 we developed -- we developed the procedures that we were going
2 to use to waterboard people. We talked with the physicians
3 about what the safety precautions were. We worked out what
4 was going to happen in case we were attacked by Abu Zubaydah,
5 because the first time he wasn't shackled when I was in the
6 room with him doing the neutral assessment. We talked about
7 all kinds of things.

8 Q. Do you know -- did all of the people that you worked
9 with from that time period, from August of 2002 until the new
10 sheriff came -- were all of them -- did they have past
11 experience in doing the tasks that they were assigned to?

12 A. Are you asking me if the chief of base was the chief
13 of base or whether the targeter was a targeter, whether the --
14 the reports writer was a reports writer, whether the security
15 guy was a security guy, whether the physician was a physician,
16 whether the nurses were a nurse? Yeah.

17 Q. Did you make any inquiries about the background that
18 they had or the experience that they had?

19 A. No. I didn't walk up to the physician and ask to see
20 his degrees.

21 Q. Okay. When you were working with Dr. Jessen and
22 establishing the program that you -- that you wanted to use
23 to -- for what you called -- they called enhanced

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1 interrogation techniques -- which was not your word, I agree
2 with that -- did you reach out to anybody for an ethics
3 opinion about that?

4 A. Yes.

5 Q. Whom did you reach out to?

6 A. We reached out to -- let me see if his name is on the
7 list of people that I can talk about.

8 Actually, I think it was later than that. I think it
9 was later in 2003 that we reached out to him, so I would -- it
10 would be -- I would be mischaracterizing it if I said it was
11 in 2002. But I can look to see if that guy's name is on the
12 list of people.

13 I don't see him on this list.

14 Q. Okay. If you reached out to him in later of 2003,
15 what is it that prompted you to do that?

16 A. We were attempting to get out of that double bind that
17 we talked about earlier, where sometimes they asked us to give
18 a, you know, "How's this guy doing now" assessment, you know.
19 And I thought it was a conflict of interest, and I wanted an
20 ethical opinion to back it up so that I had somebody who, you
21 know, had some expertise in the field of ethics to back that
22 up.

23 Also, there was a question from, as I recall, the

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1 chief psychologist for the Office of Medical Services who
2 seemed to think that it was somehow cheating for Dr. Jessen
3 and I to be interrogators because we were Ph.D. psychologists
4 who had a lot of background in human behavior and that we
5 might be able to somehow Svengali these people into providing
6 information and not giving them a fair chance at, I don't
7 know, disseminating or whatever it was that he was concerned
8 about.

9 Q. So did you reach out for an opinion about that, too?

10 A. Yes.

11 Q. Okay. And ----

12 A. We -- the specific question was is it ethical for a
13 psychologist to be an interrogator.

14 Q. And did you reach out to the APA, the American
15 Psychological Association?

16 A. I did not.

17 Q. Okay. They have available to their members people who
18 will provide ethical opinions, do they not?

19 A. They do. But it was a classified compartmentalized
20 program and I wasn't going to go to the APA and say, "Hey,
21 I've got this question," you know, when we had a person who

22 [REDACTED]
23 [REDACTED] who could answer that question by

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1 informally reaching out to his folks.

2 Q. Where did he work?

3 A. He was a contractor for the agency at that particular
4 time.

5 Q. All right. Did you get an opinion from him?

6 A. I did, and I think it's been declassified.

7 Q. Okay. Before ----

8 A. In fact, I think his name is on it.

9 Q. Before that issue came up, when you were putting
10 together the EIT program, you didn't reach out to anybody for
11 any kind of an ethical opinion about that issue or even making
12 this proposal, did you?

13 A. Making what proposal?

14 Q. The proposal for the enhanced interrogation
15 techniques.

16 A. No. I -- I think I covered in my book and in my
17 earlier testimony that I thought my ethical obligation was to
18 save American lives, and that's what -- that's what I -- that
19 I did. And -- that's what I did.

20 Q. Well, we'll come back to that later, but obviously
21 that -- that was a moral or ethical judgment that you made; is
22 that correct?

23 A. Correct.

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1 Q. Okay. And there's nothing in the APA guidelines or
2 the rules of ethics or anything else that -- that talk about
3 that, is there?

4 A. Well, there is now, right? I mean, now they say
5 essentially that psychologists shouldn't help in law
6 enforcement -- any kind of law enforcement or any kind of
7 military. There's some -- any kind of military interrogation
8 kinds of things. There's some pushback from the psychologists
9 in the military, and I think they're trying to work that out,
10 but I haven't been keeping track of it.

11 But at the time, I didn't think I was going to be a
12 psychologist. I didn't think they were asking me to be a
13 psychologist. I thought what they were asking me to do was be
14 an interrogator, and I don't feel like I need the APA's
15 permission to be an interrogator.

16 Q. You could go to any job that you wanted. You don't
17 need their permission, correct?

18 A. Precisely.

19 Q. Sure. Okay. Now, you indicated in your earlier
20 testimony that you had some sensitivity to cultural and
21 religious differences; is that right?

22 A. That's a pretty broad question, but I think there is
23 some sensitivity to cultural and religious differences.

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1 Q. Right.

2 A. I don't know that I phrased it that way. I think
3 that's an inference you made.

4 Q. Okay. Before you started the -- interrogating
5 Mr. Binalshibh or the other defendants ----

6 A. I didn't interrogate Mr. Binalshibh.

7 Q. It's a general question. I'm sorry.

8 A. No, you used a specific name.

9 Q. I did, I did, I did. But you didn't let me finish the
10 question, okay?

11 Before you started interrogating Abu Zubaydah or
12 anybody else that was picked up after him, right, did you have
13 any knowledge of Islam?

14 A. I got briefings from their Islam expert there, right,
15 from the agency because we would sit down with him for hours
16 and ask him questions. And, you know, occasionally someone
17 like Zubaydah would ask for a fatwa and we would discuss what
18 the fatwa meant and how -- you know, how -- what the
19 implications were for him in captivity. So I did -- I did --
20 we did that.

21 Q. How much time did you spend doing that before you got
22 engaged in this program?

23 A. I have no idea. I -- I couldn't tell you.

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1 Q. Was that person a Muslim?

2 A. Yes. In fact, he was a Muslim that Abu Zubaydah would
3 accept a fatwa from.

4 Q. And how do you know that?

5 A. Because he told me.

6 Q. Who -- who's "he"?

7 A. Abu Zubaydah.

8 Q. Okay.

9 A. He told me what he didn't want and what he did want.

10 Q. And how did Abu Zubaydah know who this person was?

11 A. I think he asked what the person's religious sect was.

12 Q. Okay. That was it? Nothing else but the sect?

13 A. I don't remember. You know, it's -- you're asking
14 me -- you know, this is -- in my mind, this is a bit of
15 fogger. It's an overemphasis on petty details that are
16 really irrelevant in the long run, but I'll answer any
17 question you have.

18 Q. When you talked to this scholar person, whoever it
19 was ----

20 A. This person -- this person was a religious scholar.

21 Q. Okay. We'll refer to him as a scholar. Okay. That's
22 fine. Did he tell you the importance of praying for Muslims?

23 A. Well, I didn't need him to tell me that. I know what

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1 the importance was.

2 Q. You already knew that? Okay. All right.

3 And what about the relationship between men and women
4 in the Islam faith? Did you talk about that?

5 A. Again, I didn't need him to talk about that. I knew
6 how chauvinistic they were.

7 Q. Okay. Where did you learn that from?

8 A. I was in a Special Operations unit and I've done
9 reading on my own. Also, I did some work for the agency in
10 cross-cultural kinds of things and -- and did some general
11 reviews of things that I thought might be relevant.

12 Q. So this is even before you went to the scholar, you
13 had some general knowledge yourself; is that right?

14 A. Yes.

15 Q. Okay. All right. And did -- were you aware of the
16 sensitivity of Muslim males with respect to nudity?

17 A. Yes.

18 Q. Okay. Were you aware of their sensitivity to privacy?

19 A. Yes.

20 Q. And did you know the importance of hair to them, both
21 on their head and their beards?

22 A. Yes.

23 Q. All right. And did you know that there were different

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1 sects of -- of Muslims?

2 A. Of course.

3 Q. Okay. And how did you learn that?

4 A. It would be difficult to have lived the life I lived
5 and not know the difference between the Shia and the Sunni and
6 the different sects within those two. It's -- I picked it up
7 along the way. It's not ----

8 Q. Okay. Before you met Mr. Binalshibh, did you do any
9 checking on his background?

10 A. I'm sure I received a briefing from a -- I would -- I
11 would -- I would have received a briefing on him, probably
12 from the targeter who had been following him, about him, but I
13 don't recall the specifics of it.

14 Q. And when you say you received a briefing, would that
15 be just about his recent past activities or would it be like a
16 whole history of his -- his lifetime?

17 A. You mean from birth?

18 Q. As far back as the briefing went. That's all I'm
19 asking.

20 A. No. We were only interested in his terror activities
21 for the most part, and the folks he was associated with on a
22 link chart, and the processes he used to communicate, that
23 kind of stuff. I -- whether or not he was a -- you know, what

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1 he did with his teenage years, not important at that
2 particular time.

3 Q. Did you know what country he was from?

4 A. What country he was from?

5 Q. Yeah.

6 A. I'm sure I was told. I don't know that I recall now.

7 Q. All right. Are you aware of the fact that there are
8 differences in cultural activities in different Middle Eastern
9 countries?

10 A. Yes, sir.

11 Q. I assume that in your work before you started this, in
12 the interrogation program, and your experience with -- with --
13 with Muslims that you -- you came to appreciate the fact that
14 Americans look at the world maybe with American lenses and
15 sometimes they're not sensitive to other countries?

16 A. I realized I didn't answer your questions
17 completely -- one of your earlier questions completely.

18 Although he's Shia and not Sunni, I did spend three
19 months with Ali Soufan briefing us about what he thought. And
20 I know there are big differences and, in fact, Abu Zubaydah
21 told me he thought he was an infidel, but he was briefing us
22 on what he thought the -- the -- the Salafist Sunni background
23 for Zubaydah was. So we -- I didn't have daily conversations

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1 with him about those kinds of things, but I wanted to give you
2 a complete answer.

3 Q. Did you say that Mr. Binalshibh was Shia rather than
4 Sunni?

5 A. Of course not.

6 Q. I misunderstood you. I'm sorry.

7 A. No, I said that Ali Soufan was Shia.

8 Q. Okay.

9 A. Which is the reason that his interrogating of
10 Abu Zubaydah was not all that successful. Got a little bit,
11 but Zubaydah didn't like him.

12 Q. When you testified last week, you -- you mentioned
13 that there came a time when -- several occasions where you had
14 to basically stand up to other people in -- in interrogation
15 proceedings because you objected to things that were -- were
16 happening. Do you recall testifying about that?

17 A. Yeah, I didn't use the word "stand up," but I would
18 say confront them about things that I thought they were doing
19 wrong. But "stand up" is a good word.

20 Q. Okay. And we've had an opportunity to see you for the
21 past week, and would -- would you agree that you are a strong
22 person and you're not afraid to voice your opinion when you
23 see something that you don't agree with or you think is wrong?

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1 A. Yes.

2 Q. Okay. And you -- you mentioned many times that there
3 was an obligation on other people who participated in the
4 interrogation program that, if they saw things that were
5 wrong, they were supposed to report it or do something about
6 it; is that right?

7 A. Yes.

8 Q. Okay. You recall instances where that happened?

9 A. I recall -- yes. The -- the instance with the gun and
10 the drill for Nashiri is probably the most famous instance of
11 that. There was an instance where one of the new sheriff's
12 newly trained interrogators literally faked a piece of
13 intelligence on Ramzi Binalshibh, put words in his mouth that
14 he didn't use, and he was summarily dismissed for some other
15 reason. There were several of those kinds of things.

16 Q. And who reported those things?

17 A. Other folks.

18 Q. Do you know who?

19 A. No. I mean, I think the guards reported the drills
20 and the guns, and the site manager elaborated on that. And
21 with respect to the other, it would have had to have been -- I
22 don't know. I would just have to speculate. I know it
23 happened, but I don't know who reported the one about the

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1 intel issue.

2 Q. And can you remember any others?

3 A. Yeah. The psychologist who reported to me and then to
4 the superiors that the new sheriff was using the broomstick
5 again when he was told not to is another instance of that.

6 Q. Okay. And those are very egregious examples; is that
7 right?

8 A. They seemed egregious to me. I can give you an
9 example involving me.

10 Q. Sure.

11 A. When I slapped -- and I think I discuss it in my
12 book -- Abu Yasir al Jaza'iri, he jumped up in the air and
13 collapsed on the ground. And one of the interrogators thought
14 that I had hit him with my fist, so he reported it to the IG.
15 And the IG asked me about it, and I explained it.

16 So that's an instance of a person working directly
17 with me who reported something that he thought was out of
18 line. Turned out it wasn't, but he reported it, and I think
19 that's a good thing.

20 Q. Okay. That's the extent of what you know; is that
21 right?

22 A. It's the extent of what I recall now. I'm sure there
23 were other instances, especially around Site 2. You know,

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1 Dr. Jessen reported a number of incidences at Site 2 that he
2 thought were -- that needed improvements. And you guys have
3 that cable that he wrote where he said, "Get the doctors down
4 here. Get some heating. Get" -- da, da, da, you know.

5 Q. Right. And that was very early on in the program; is
6 that right?

7 A. That wasn't even the program. The program didn't even
8 exist when Site 2 was set up.

9 Q. Now, can you tell me, at any point in time from 2002
10 up until 2006, September of 2006, did you keep a diary of any
11 kind?

12 A. No. The CIA frowns on diaries.

13 Q. Right.

14 A. I mean, you could keep it if you kept it in
15 headquarters.

16 Q. Right.

17 A. If I kept it in headquarters in a SCIF, I could have
18 kept a diary. But I was deployed in 2002, 279 days, well over
19 300 days in 2003, and I wasn't going to -- I couldn't possibly
20 lug back and forth a classified diary like that. It wouldn't
21 happen. I didn't keep it.

22 Q. All right. When you wrote your -- your book, did
23 you -- did you do that from memory?

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1 A. I used -- I did it from memory, and I used the Senate
2 Select Committee Majority Report, the Senate Select Committee
3 Minority Report, and the CIA's pushback in 2013, as well as a
4 website called CIASavedLives, which had a timeline for the
5 various legal judgments that were made about this thing. And
6 I think the CIA directors wrote a rather extensive series of
7 essays called *Rebuttal* where most -- I think five directors or
8 whoever wrote opinion pieces about the thing.

9 So what I -- what I used those things for was to kind
10 of shape my understanding of the timeline, that sort of stuff,
11 to try to get a feel for when things happened and ----

12 Q. All right. But it was primarily from your own memory;
13 is that right?

14 A. Yes.

15 Q. Okay. You gave a lot of anecdotes that happened in
16 there. I take it those were from your ----

17 A. Yes.

18 Q. ---- memory? Especially the ones that are not
19 referred to in those reports; is that right?

20 A. Correct.

21 Q. And why did you write the book?

22 A. Because I thought that the CIA response was not
23 getting any play, and I thought that the Senate Select

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1 Committee Minority Report was not getting any play, and I felt
2 like it was necessary to explain the thing in a way that, as
3 far as I could tell, was just as straightforward as possible.

4 Q. And did you do it also because you felt either
5 slandered or insulted ----

6 A. Oh, absolutely, I felt slandered.

7 Q. Okay. And you were trying to basically clear your
8 name or -- or put your ----

9 A. I don't think I -- you know, I don't need my name
10 cleared. I just want the story to be accurate. You know, I
11 waterboarded those guys. I'm not trying to hide that. You
12 know, I'm not trying to hide what I did. I just want it to be
13 accurate.

14 Q. All right. Did you go to the CIA and review -- review
15 any classified documents or anything to help you prepare? No?

16 A. They wouldn't let me.

17 Q. Your book had to be vetted by the CIA before it was
18 published; is that right?

19 A. It had to be reviewed for classification. I think
20 there's a specific disclaimer in the front of it that says
21 that they reviewed it for classification only and that they
22 don't verify that the facts are -- blah, blah, blah, you know.

23 Q. And when you reviewed the -- the Senate Select

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1 Committee Report, you ----

2 A. The Majority or the Minority?

3 Q. The -- either one, but primarily the Majority.

4 ---- you knew that that report was primarily based
5 upon the -- the CIA cables that had been sent from the black
6 sites? You understood that, didn't you?

7 A. That was one of the reasons I thought it was useful to
8 review before I wrote my book -- or as I was writing it.

9 Q. Okay. Now, there came a time when you -- you
10 testified before the -- the grand jury for John Durham; is
11 that right? Remember that?

12 A. Of course.

13 Q. Okay. And you were given immunity before you
14 testified; is that right?

15 A. That's correct.

16 Q. All right. And why did you ask for immunity?

17 A. Based on my lawyer's advice.

18 Q. Okay. And do you know, are there any warrants out for
19 you anywhere?

20 A. No, there's no warrants out for me.

21 Q. Okay. Are there any countries that you can't go to or
22 that you wouldn't feel like going to?

23 A. I don't know. I'm not traveling to other countries.

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1 But we've periodically checked, and the answer has been no so
2 far. I mean, I wouldn't go to Russia or China or North Korea,
3 so I would guess I wouldn't go to those. I would probably
4 avoid Venezuela.

5 Q. Would you avoid the countries where the black sites
6 were?

7 A. No, not specifically. I don't have any great desire
8 to go to those countries, but I don't see any reason that I
9 would need to avoid them.

10 Q. Okay. Now, you were -- you were also -- had some
11 reporting which you said was false that was made against you
12 by some members of the -- of the CIA at the black sites; is
13 that right?

14 A. Correct.

15 Q. Okay. And I think you said that NZ7 made some
16 allegations against you that were wrong; is that right?

17 A. Correct.

18 Q. And you attributed to him his motivation was trying to
19 get rid of you; is that -- is that right?

20 A. We, he was an acolyte of the new sheriff. And at that
21 particular time, because of the way the CIA had set up that
22 contract, we were being paid more than the other folks were
23 being paid.

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1 And the new sheriff, who was an operations officer,
2 was -- I mean, we were contractors, and they were -- they were
3 friends, had been friends for a long time. And the new
4 sheriff didn't believe that we had any business there, and he
5 didn't believe we had any business there either, I guess,
6 based on what he said.

7 Q. When you say he was an acolyte, what do you mean by
8 that?

9 A. That he sung their praises -- he sung his
10 phrases [sic], that they had known each other, they were good
11 friends. He thought his way of doing interrogations was the
12 way to do it. He was comfortable with that. That he tended
13 to think that the -- and I can only report what he told me,
14 right? What he told me, when I said -- I -- I describe an
15 incident in my book where he puts his hand on the top of Ramzi
16 Binalshibh and he starts talking about fire in the lake and
17 power coming down through his hand.

18 And I said, "What are you doing," when he got done
19 with that. And he said, "Well, I want him to think I'm crazy
20 and I'm just about to do anything, I'm unpredictable."

21 And I said well, I don't think that's right. I think
22 the detainee should be able to predict exactly what you're
23 going to do. They should be able to predict what you are

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1 going to do when they lie to you and they should be able to
2 predict what you are going to when they are not lying to you.
3 And I don't think it's helpful at all to, you know, try to
4 keep them off balance and keep them unable to predict what
5 you're going to do. So there were some differences like that.

6 Q. Did you report him for that?

7 A. That was not a -- a reportable incident. He just put
8 his hand on his head and said some things.

9 Q. You thought they were pretty crazy things, though,
10 didn't you?

11 A. I thought that they weren't useful things. I didn't
12 think they were insane. I didn't think they were delusional.
13 I didn't think it had anything to do with a psychotic break.
14 So I don't think they were crazy unless you're using the term
15 euphemistically and informally and colloquially. It is just
16 not what I thought would be useful.

17 Q. And did you resolve that issue with him?

18 A. No.

19 Q. The answer is no?

20 A. That was what I just said.

21 Q. Okay. I just didn't -- I'm sorry. I didn't hear you.
22 Did -- did you continue to work together?

23 A. Yes.

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1 Q. Did that go well?

2 A. It seemed to go well until he wrote the cables.

3 Q. What did he accuse you of?

4 A. I -- well, if -- if he's the one who wrote the cable
5 that I just looked at the other day, he accused us of putting
6 KSM's son's pictures up on the wall and writing 50 on the
7 wall. And that's just not crap I would do or Dr. Jessen would
8 do. We didn't do that, you know.

9 Q. I'm sorry. You said "us." Did you mean you and
10 Dr. Jessen?

11 A. Yes.

12 Q. All right. Did he accuse you of anything else?

13 A. I'm trying to think of that. Well, punching Abu Yasir
14 al Jaza'iri, which I think it was a reasonable thing because
15 he did jump up in the air and fall down, right, so I thought
16 that was reasonable.

17 Q. Were his complaints investigated?

18 A. Oh, yeah, by the IG.

19 Q. And they were found in your favor; is that right?

20 A. Yes.

21 Q. All right. Did you continue to work with him after
22 that?

23 A. Yes. Well, for -- after KSM, did I continue to

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1 work -- no. You see, because I quit doing EITs in the summer
2 of 2003. I didn't do EITs after that. The CIA employed me
3 doing other things, and I would come back and do the "how's it
4 going" visits and the maintenance visits and the resolving
5 conflicts kind of stuff, but I wasn't doing what the CIA
6 called interrogations at that time. I'd still sit with
7 debriefers sometimes and do other things.

8 Q. Would you say that your skills far exceeded anybody
9 else who did interrogations?

10 A. Well, it seems like an arrogant -- that is an arrogant
11 thing to think.

12 Q. Let me rephrase the question. Okay. You've talked
13 about your background as a psychologist, all of the things you
14 did in your career, hostage negotiations, all sorts of things
15 that form the person that you are and -- and give you the
16 skills that you have, right? I would assume -- and just an
17 assumption -- that anybody else that you met probably did not
18 have that wealth of experience doing the same work that you
19 were doing. Would that be accurate, do you think?

20 A. Are you asking me now about their experience ----

21 Q. Yeah, yeah.

22 A. ---- and whether they had the wealth of experience or
23 whether or not I thought I was better than them?

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1 Q. I didn't -- nothing about you being better. I'm just
2 asking about whether they had the experience?

3 A. You know, I don't know whether they had the experience
4 or not because we didn't sit down and compare vitas.

5 Q. Did you consider yourself to be more skilled than
6 them?

7 A. At some things and at some things not.

8 Q. Okay. Were -- were you also accused of stealing a
9 tape or tapes or ----

10 A. A hard drive.

11 Q. A hard drive?

12 A. That was the new sheriff. And -- it could have been
13 but I think it was the new sheriff.

14 Q. Okay.

15 A. I can explain it if you want.

16 Q. Was -- was that investigated also?

17 A. Yes.

18 Q. Was that dismissed also?

19 A. Yes.

20 Q. And after that complaint was made, assuming it was the
21 new sheriff, did you work with him again?

22 A. No.

23 Q. Now, when you said that NZ7 was an acolyte of the new

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1 sheriff -- NZ7 by the way, that's the preacher, right?

2 A. Correct.

3 Q. Okay, the preacher was an acolyte of the new sheriff.

4 Was -- did the new sheriff train the preacher, if you ----

5 A. Yes.

6 Q. ---- know? Okay. Do you know how many other people
7 he trained?

8 A. I don't have a specific number of people that he
9 trained. There were -- he did several classes and he
10 handpicked the people to be in the classes, and I don't
11 know -- I just flat didn't know.

12 Q. Okay. Could you just give us your best estimate? Was
13 it five people, ten people? Do you know?

14 TC [MR. GROHARING]: Judge, he's already said he didn't
15 know. I object on speculation.

16 MJ [Col COHEN]: Counsel?

17 LDC [MR. HARRINGTON]: He can give his best recollection,
18 Judge. If he can't, he can't. He can say so.

19 MJ [Col COHEN]: Let me clarify the question. Do you not
20 know at all or are you -- are you -- do you know at least in a
21 ballpark or is that also you don't know?

22 WIT: Well, they wouldn't run a class for one person,
23 right? I don't know how many people it was that he actually

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1 had. I think there was probably five or six in a class, maybe
2 more. I don't -- I don't know.

3 When we did it, sometimes debriefers would attend and
4 there would be six or seven folks. So I don't know how many
5 were in his classes. I just -- well, I -- I know there was
6 a -- I -- the one that I sat through that I sat in until I got
7 up and left when he started using the broomstick, that might
8 have been seven or eight people in that class.

9 Q. All right. Did he teach more than one class?

10 A. Yes.

11 Q. And the people that he taught, they were assigned to
12 do work as interrogators in the black sites; is that correct?

13 A. Typically they were assigned to the medium-value sites
14 like -- I won't -- Site 2 was considered a medium-value site,
15 and then another medium-value site that they had. So
16 typically they didn't have anything -- they didn't deal with
17 the HVDs. But I realize as I talk to you and I've talked to
18 these people this week that some people passed through there
19 like, you know -- well, KSM and, you know, I guess most of the
20 folks that you guys are defending, passed through Site 2 at
21 one time or another. And some of them were interrogated by
22 him and the people that he had trained for a short period of
23 time.

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1 Q. Okay. And do you know eventually if any of them made
2 it into the HVDs or not?

3 A. Well, the preacher did because he was working with us.

4 Q. Yeah. Other than him?

5 A. I don't recall.

6 Q. Okay. Previously there was a -- there was a complaint
7 filed against you with the American Psychological Association;
8 is that right?

9 A. Yeah. I didn't know about that complaint until I read
10 the report that some lawyers' group did for that, but I didn't
11 know about that complaint.

12 Q. Okay.

13 A. Nobody from the American Psychological Association
14 contacted me.

15 Q. Right. And you resigned before that was adjudicated;
16 is that right?

17 A. I don't even know that it was adjudicated. I -- I --
18 I don't know the timeline because I didn't know the complaint
19 had been filed, so ----

20 Q. Did you know with the APA that once you resigned, that
21 would be the end of any complaints because they had no
22 jurisdiction anymore?

23 A. Well, I mean, I'm sure I realized that, but that

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1 wasn't the reason -- like I said, I didn't even know somebody
2 had filed the complaint.

3 Q. Can you tell me, which black sites were you present at
4 with Ramzi Binalshibh, just by the numbers?

5 A. Now, I need to tell you, you should entertain the
6 possibility that I'm going to forget one or two because I saw
7 him off and on the whole time he was in the thing. So I
8 was -- I was with him on -- at Site 4. I believe I was with
9 him briefly at Site 5. I was with him at Site 6. And if he
10 was moved to 7 and 8, I would have probably seen him there.

11 Q. Now, you -- you mentioned that four sites there; three
12 for sure and potentially a fourth. Do you know why Ramzi or
13 any of those detainees were moved so much?

14 TC [MR. GROHARING]: Objection, relevance.

15 LDC [MR. HARRINGTON]: It's just a preliminary question,
16 Judge.

17 MJ [Col COHEN]: Okay.

18 LDC [MR. HARRINGTON]: It's the one question. I'm coming
19 back to it later, but it's just ----

20 MJ [Col COHEN]: Okay. Let me just ask, that's a yes/no
21 question. Do you have personal knowledge as to why they were
22 moved so much?

23 WIT: I know why folks were moved from Site 3 to Site 4.

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1 MJ [Col COHEN]: Is that the only reason you know why they
2 were moved otherwise?

3 WIT: I know why they were moved [REDACTED]
4 [REDACTED]

5 MJ [Col COHEN]: Okay.

6 WIT: I mean, I know what I was told. I don't know the
7 actual reason.

8 MJ [Col COHEN]: All right. So there we are. The answer
9 is yes, he does have information.

10 WIT: Okay.

11 Q. And the decider of that was not you; is that right?

12 A. Of course not.

13 Q. Okay. Did you have any influence or opinions or
14 anything else sought from you about where -- where the
15 detainees would be?

16 A. No.

17 Q. When you first met Ramzi, where -- where was that?
18 What -- what black site was that?

19 A. I think it was at Site 4 in February. But if
20 you've -- you should have another one of those pieces of paper
21 like everybody else that has my contact and substantial --
22 whatever you call it -- with him. And I'd be happy to look at
23 that piece of paper and save you some questioning.

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1 Q. Well, if you don't mind, I'll ask the questions
2 myself.

3 A. Well, it's your -- it's your time.

4 Q. Was he a top priority?

5 A. He was at the time because he was, I think, the newest
6 capture.

7 Q. Who did you just wink at?

8 A. My attorney.

9 Q. All right. Why did you do that?

10 A. Because I like the guy. He's sitting back there stone
11 faced staring at me.

12 Q. When you met Mr. Binalshibh, did you think of him as a
13 difficult person?

14 A. Not when I met him.

15 Q. Did there come a point in time when you did?

16 A. Yes.

17 Q. And did he offer a lot of resistance?

18 A. Well, he was already out of EITs when I met him, but
19 he was frequently difficult to deal with.

20 Q. And in the difficulties to deal with him, did you look
21 at that as -- as a resistance from him to his capture or
22 something else?

23 A. Well, if we talk about Site -- let me make sure I get

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1 the right number -- 5, I got deployed to Site 5 because he was
2 getting sideways with the targeter who was questioning him,
3 and they weren't getting along. He was not cooperating with
4 her. And so they sent me there to sort out what was going on.
5 I sat down and talked with her, and then I sat down and talked
6 with him, and he said that -- she said he was lying and she
7 cussed at him and then he was more difficult.

8 And I talked to him and he said, "Yeah, I'm lying
9 because I don't want to be questioned by a woman and she
10 cussed at me" -- or something. I describe it in my book. And
11 I told him that he was going to have to work with her; that we
12 couldn't change it; and that the best thing to do was to tell
13 her the truth. And then she cussed at him after he did ----

14 Q. That was after he was at -- at Site 4; is that right?

15 A. Yes, sir.

16 Q. So after he had gone through the EIT program; is that
17 right?

18 A. I think he went through the EIT program at Site 2, if
19 I understand what I read earlier. In my book, I -- I
20 mistakenly, because I couldn't review any documents, thought
21 it happened at Site 4. But I don't -- I don't recall. Once I
22 saw the documents, it refreshed my memory.

23 Q. Do you recall being at him in Site 4?

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1 A. Being what at him?

2 Q. Do you -- I'm sorry. Do you recall being with him at
3 Site 4 while he was going through the EIT program?

4 A. It wasn't -- like I said, I don't think he was going
5 through the EIT program at Site 4. I think he was in the
6 debriefing mode at Site 4.

7 Q. The incident that you mentioned at Site 5 with the --
8 the woman debriefer -- is that right? And she was a
9 debriefer; is that right?

10 A. She was a targeter, but we called her a debriefer.
11 She was a -- she was a targeter. She was a senior ----

12 Q. Yeah.

13 A. ---- person at Alec Station.

14 Q. Okay. And the way you describe it in your book, the
15 two of them really didn't get along, and they both were
16 difficult with each other; is that right?

17 A. Right. My impression is he doesn't like whiting [sic]
18 with women and she didn't like him -- I mean working with
19 women and she didn't like him.

20 Q. But he also didn't like what she said to him; is that
21 right?

22 A. Yeah. She cussed at him.

23 Q. And after you schmoozed it out, she came back and they

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1 had another exchange?

2 A. She cussed at him again.

3 Q. And you -- you attribute that to the fact that she was
4 a woman?

5 A. What?

6 Q. Mr. Binalshibh's behavior toward her was because she
7 was a woman. That's what you assume?

8 A. That's what he told me.

9 Q. That's part what he told you, correct?

10 A. Right. I mean, part of it was that she cussed at him,
11 and part of it was that she was a woman. He wanted to work
12 with a man. He didn't want to work with a woman.

13 Q. And he told you that he didn't want to be spoken to
14 that way or treated that way, did he not?

15 A. I think I've said that.

16 Q. Yeah. And he'd already been cooperating with the
17 government at that point, had he not, with other people?

18 A. Off and on, yes.

19 Q. Are you aware that Dr. Jessen had his photograph taken
20 with Mr. Binalshibh at one of the black sites?

21 A. I don't think that's true.

22 Q. Okay.

23 A. Do you have it?

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1 Q. Are you aware that he told Ramzi that Ramzi was the
2 toughest guy that they had ever had?

3 A. Dr. Jessen?

4 Q. Yeah.

5 A. No.

6 Q. Okay.

7 A. I -- I think you've got the wrong guy.

8 Q. If I could just go back to this incident at -- at 5
9 again. Did you -- after the incident was over, right, did you
10 talk to the -- the targeter or the debriefer again and ----

11 A. Yes. I told her it was counterproductive to cuss at
12 him like that. It was counterproductive. That she should
13 have let him save face by admitting that, you know, he had
14 lied to her. In fact, I talked to her before this.

15 Q. Did she accept your counsel?

16 A. I don't know. She's a strong-willed woman who is
17 pretty senior in the -- in -- in that particular place of
18 the -- where she was at in the agency. Whether she accepted
19 my counsel or not, I don't know.

20 Q. Did they continue to speak to one another?

21 A. She continued to be his debriefer, so I'm pretty sure
22 that ----

23 Q. For how long?

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1 A. I have no idea.

2 Q. Did you follow up on it?

3 A. No.

4 Q. Had you flown all the way to -- to Location 5 just for
5 that purpose?

6 A. I don't recall. It wouldn't surprise me.

7 Q. But you didn't follow up with her to see how it was
8 going the next day, two days later, anything? No?

9 A. You know, my life is looking forward, not backwards.
10 You know, these are senior CIA people. The -- the notion that
11 a contractor is going to follow up to make sure she's
12 following his advice would be counterproductive for everybody
13 involved.

14 Q. Well, you -- you go to see the detainees and say, "How
15 are you doing," correct?

16 A. Uh-huh.

17 Q. There's nothing wrong with going to her and saying,
18 "How's it going with Ramzi," right?

19 A. She's in a site completely across the world from me.
20 That's -- that's not happening.

21 Q. But you were there.

22 A. What are you talking about? I was there overnight.

23 Q. You went to ----

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