

Exhibit 2

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON
AT SPOKANE

- - -

SULEIMAN ABDULLAH :
SALIM, MOHOMED AHMED : DOCKET NO.
BEN SOUD, OBAID ULLAH :
(as personal : 2:15-CV-286-JLQ
representative of GUL :
RAHMAN), :

Plaintiffs, :

v. :

JAMES ELMER MITCHELL :
and JOHN "BRUCE" :
JESSEN, :

Defendants. :

- - -

Friday, January 20, 2017

- - -

Videotaped deposition of JOHN
BRUCE JESSEN, taken pursuant to notice,
was held at the law offices of Blank
Rome, 130 N. 18th Street, Philadelphia,
Pennsylvania 19103, beginning at 10:07
AM, on the above date, before Constance
S. Kent, a Registered Professional
Reporter and Notary Public in and for the
Commonwealth of Pennsylvania.

* * *

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1	NO.	DESCRIPTION	NO.
2	Exhibit 23	Email dated 5/28/03, Bates USA 1588	248
3	Exhibit 35	Email, Subject: EIT	260
4		briefing for Sec State, labeled US Bates 1175	
5	Exhibit 21	CIA Comments on the	274
6		Senate Select Committee on Intelligence Report on the Rendition, Detention and Interrogation Program	
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1 THE VIDEOGRAPHER: We are
2 now on the record.
3 This begins DVD No. 1 in the
4 deposition of John Bruce Jessen in
5 the matter of Salim versus James
6 Elmer Mitchell and John Bruce
7 Jessen in the United States
8 District Court, Eastern District
9 of Washington.
10 Today is January 20th, 2017,
11 and the time is 10:07 AM.
12 This deposition is being
13 taken at 130 North 18th Street,
14 Philadelphia, Pennsylvania, at the
15 request of Gibbons, PC.
16 The videographer is Benjamin
17 Neate of Magna Legal Services, and
18 the court reporter is Connie Kent
19 of Magna Legal Services.
20 All counsel and parties
21 present will be noted on the
22 stenographic record.
23 Will the court reporter
24 please swear in the witness.

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1	- - -
2	DEPOSITION SUPPORT INDEX
3	- - -
4	
5	Direction to Witness Not to Answer
6	Page Line Page Line Page Line
7	None
8	
9	
10	Request for Production of Documents
11	Page Line Page Line Page Line
12	None
13	
14	
15	Stipulations
16	Page Line Page Line Page Line
17	None
18	
19	
20	Question Marked
21	Page Line Page Line Page Line
22	None
23	
24	

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1 JOHN BRUCE JESSEN, having
2 been first duly sworn, was
3 examined and testified as follows:
4 MR. WARDEN: Good morning,
5 I'm Andrew Warden from the US
6 Department of Justice and I
7 represent the United States
8 Government.
9 On behalf of the United
10 States Government, I have with me
11 here today Joseph Sweeney,
12 attorney with the CIA Office of
13 General Counsel, Cody Smith, an
14 attorney with the CIA Office of
15 General Counsel, Heather Walcott,
16 an attorney with the CIA Office of
17 General Counsel, Megan Beckman,
18 paralegal with the CIA Office of
19 the General Counsel, Antoinette
20 Shiner, Information Review Officer
21 with the CIA.
22 And on behalf of the
23 Department of Defense, Richard
24 Hatch, an attorney with the DOD,

1 So I understand you -- you
 2 have a Ph.D. from Utah State; is that
 3 correct?
 4 A. Yes.
 5 Q. What is that Ph.D. in?
 6 A. Applied clinical psychology.
 7 Q. And did you focus on
 8 anything in the course of your Ph.D.?
 9 A. Applied clinical psychology.
 10 Q. And what does that mean?
 11 A. It's an accredited Ph.D.
 12 program that allows you to sit for
 13 licensure as a clinical psychologist.
 14 Q. Is there any distinction
 15 between applied clinical psychology and
 16 other forms of clinical psychology?
 17 A. No.
 18 Q. In the course of that Ph.D.,
 19 did you have any course work on trauma?
 20 A. What specifically do you
 21 mean by trauma?
 22 Q. Well, do you understand the
 23 word trauma to mean something in the
 24 context of psychology?

1 A. Yes.
 2 Q. What do you understand it to
 3 mean?
 4 A. I believe there are multiple
 5 ways you can experience trauma, I just
 6 don't know what you're talking about.
 7 Q. Well, have you ever studied
 8 the way people respond to, for example, a
 9 traumatic experience?
 10 A. Yes.
 11 Q. Did you study that in the
 12 course of your Ph.D.?
 13 A. Yes.
 14 Q. Did you ever study
 15 posttraumatic stress disorder?
 16 A. I have studied it or I've
 17 familiarized myself with it, but I
 18 don't -- I'm not certain, but I don't
 19 believe that term even existed when I was
 20 in school.
 21 Q. I see.
 22 A. I think it was called battle
 23 fatigue or something like that.
 24 Q. I see. And did you study

1 battle fatigue when you were in school?
 2 A. Yeah.
 3 Q. What about studies on
 4 getting information from people, were
 5 those covered in your Ph.D. program?
 6 A. Yes.
 7 Q. Do you remember what you
 8 studied about that?
 9 A. As a clinician, you have to
 10 talk to people, so you're taught
 11 appropriate dialogue.
 12 Q. Does that include hostile
 13 people?
 14 A. It could.
 15 Q. What about ethics, was that
 16 covered in your course work?
 17 A. Yes.
 18 Q. Did you have -- was it
 19 compulsory to take a course on ethics?
 20 A. It probably was.
 21 Q. Were those the ethics put
 22 out by the American Psychological
 23 Association or some other kind of ethics?
 24 A. I don't remember

1 specifically.
 2 Q. After you were done with
 3 your Ph.D., did you have to do any sort
 4 of continuing education on ethics?
 5 A. Yes.
 6 Q. What sort of form did that
 7 take?
 8 A. Well, periodically you have
 9 to have so many credit hours of
 10 continuing education. I don't remember
 11 the specifics.
 12 Q. Did you complete the ones
 13 that were required for licensure?
 14 A. Yes.
 15 Q. Do you remember just sort of
 16 ballpark about how often you would have
 17 to take a refresher course?
 18 A. No.
 19 Q. Did you have to write a
 20 dissertation for your Ph.D.?
 21 A. Yes.
 22 Q. Do you remember the topic of
 23 it?
 24 A. Yes.

1 Air Station?

2 A. It meant I was the only
3 mental health provider at the air
4 station.

5 Q. I see. And it looks like
6 after that you went to -- you went to the
7 US Air Force Survival School?

8 A. Yes.

9 Q. Is that right? And what did
10 you do there?

11 A. I was in charge of
12 monitoring the instructors and the
13 students as they went through training.

14 Q. And were you still treating
15 patients at that time as well?

16 A. I would see instructors and
17 their families if they had work-related
18 or generic clinical-related problems, and
19 I would see students if they had acute
20 problems when they were going through the
21 course.

22 Q. And was that just for
23 diagnosis purposes?

24 A. It was a little more -- with

1 A. It's a paraprofessional
2 trained by the military to assist in
3 psychological care.

4 Q. Does that mean they would
5 ask questions of -- of people who, you
6 know, were experiencing some kind of
7 distress?

8 A. Sometimes.

9 Q. Would they aid in the
10 treatment, too?

11 A. Sometimes.

12 Q. All right. And at the same
13 time, you were also supervising the
14 instructors at the combat school?

15 A. Monitoring would be a more
16 accurate term.

17 Q. What -- what sort of things
18 would you monitor them for?

19 A. Make sure that their
20 comportment was consistent with the
21 operating instructions for the programs
22 they were in.

23 Q. What does that -- what does
24 that mean?

1 students it was a little more like
2 triage, you -- you intervene, and if they
3 need follow-on care, you send them back
4 to their base or refer them somewhere
5 else.

6 Q. And for the more long-term
7 folks, was it more like treatment?

8 A. I saw some instructors and
9 some family members of instructors for
10 longer treatment.

11 Q. When -- your role was
12 described as Chief Psychological
13 Services?

14 A. That's correct.

15 Q. And did that mean that you
16 supervised other people?

17 A. Yes.

18 Q. What -- what sort of -- what
19 were the roles of the people you
20 supervised?

21 A. I supervised, I believe,
22 three psychological technicians.

23 Q. What's a psychological
24 technician?

1 A. There are two basic
2 divisions of training at a survival
3 school: There's field training, which
4 consists of helping people take care of
5 themselves if they're isolated, building
6 shelters, merging themselves, also
7 protecting themselves from the enemy if
8 they're in a combat area and rendering
9 assistance to others if needed.

10 The other part is the
11 resisting training laboratory. And DOD,
12 I'll do my best to stay where I need to
13 be, but stop me if I go somewhere I
14 shouldn't, please.

15 MR. WARDEN: We will.

16 THE WITNESS: So some of our
17 military at times are captured
18 either by a lawful enemy or
19 detained by a government or held
20 by terrorists, and the resistance
21 training laboratory is designed to
22 help them acquire skills so that
23 if they're in that position, they
24 can protect the United States

1 government and themselves.

2 BY MR. LAVIN:

3 Q. And if you can answer, do
4 you run different scenarios for different
5 types of captors?

6 A. There are -- there are
7 different scenarios, there are different
8 courses, there are different threats that
9 are addressed in the different courses.
10 In the more advanced courses,
11 particularly related to counterterrorism,
12 we had to prepare scenarios that were
13 consistent and accurate to various
14 terrorist groups, their modus operandi,
15 how they would treat captives, what their
16 weaknesses were, what their beliefs were,
17 what their vulnerabilities were, condense
18 that into a package so that if one of
19 these high-risk operators were captured,
20 sometimes they're specific to a mission.
21 If they go into a particular place and
22 there's a particular terrorist group and
23 the risk of capture is high, then you
24 tailor it in that way. Those are fewer

1 in number, but higher in risk of capture.

2 The general school is for --
3 in the Air Force anyway, is for anyone on
4 flying status and anyone who would be
5 stationed in high-risk of capture zones.
6 They receive scenario training also, but
7 it's more generic, and it is more
8 consistent with the Code of Conduct. So
9 it's not as specific, but it's designed
10 to prepare them for a different
11 environment.

12 Q. You said that you would
13 monitor the comportment of the people who
14 were instructing these scenarios, do I
15 have that right?

16 A. Yes.

17 Q. And what would be sort of an
18 improper comportment for an individual
19 monitoring a scenario -- sorry, let me
20 rephrase that.

21 What would be an improper
22 comportment for an individual who was
23 training in that scenario?

24 A. There is a phenomenon that

1 those of us who work in this area
2 identify as abusive drift, and without
3 proper oversight and independent eyes on
4 authorities, people can start to push the
5 limits of what they're authorized to do,
6 and part of my role was to make sure that
7 I identified that and stopped it.

8 Q. And that -- that would
9 happen even in training?

10 A. It does happen sometimes in
11 training or the emergence of it is
12 evident.

13 Q. Do you think it happens more
14 in training or in real world-type
15 scenarios?

16 A. I think it happens more in
17 real world.

18 Q. And in the course of your
19 monitoring of these scenarios -- these
20 training scenarios, did you ever have to
21 stop a trainer from doing something that
22 he or she was doing?

23 A. Rarely.

24 Q. But it happens sometimes?

1 A. Yes.

2 Q. So you monitored these
3 scenarios for about four years as the
4 Chief of Psychological Services; is that
5 correct?

6 A. I think that's correct.

7 Q. And then how did your role
8 change when you became deputy director?

9 A. I went into a different
10 classified program.

11 Q. It says here: Deputy
12 Director, Code of Conduct SERE Training
13 Directorate, Joint Personnel Recovery
14 Agency.

15 Without saying anything
16 that's classified, it looks like at least
17 the name of this agency, the Joint
18 Personnel Recovery Agency, and of the
19 Code of Conduct SERE Training Directorate
20 are unclassified.

21 Is there anything you can
22 say about your role there?

23 A. Yes.

24 Q. Could you tell me in

1 similar to those used in SERE resistance
2 training" --

3 A. You know, I don't think I
4 can answer your question. I don't know
5 what they were thinking when they wrote
6 this, I don't know what their agenda was.
7 I know they certainly had one when I
8 talked to them. I don't know what you're
9 getting at.

10 I'm not trying to be
11 obstructionistic, but I'm trying to be
12 prudent.

13 Q. All right. Let's -- let's
14 leave this aside for a moment. Let me
15 direct your attention to a different
16 page, which is XIII.

17 A. XIII?

18 Q. That's right.

19 A. Okay.

20 Q. So if you look at the third
21 paragraph there, it says:

22 "JPRA is the DOD agency that
23 oversees military survival, evasion,
24 resistance and escape training."

1 A. I don't know.

2 Q. Okay. So you don't know of
3 a reason why that sentence would not be
4 accurate?

5 A. You have me confused.

6 Q. I apologize. Let me --
7 let's just go to that sentence again and
8 you can just tell me if there's anything
9 there that's not accurate.

10 "During the resistance phase
11 of SERE training, US military personnel
12 are exposed to physical and psychological
13 pressures (SERE techniques) designed to
14 simulate conditions to which they might
15 be subject if taken prisoner by enemies
16 that do not abide by the Geneva
17 Conventions."

18 A. I think that is accurate,
19 but I am not the DOD spokesman.

20 Q. All right. But you were --
21 you were a SERE instructor, right?

22 A. I was the -- a SERE
23 instructor is associated with the basic
24 program, so I was an instructor, but it

1 Is that accurate?

2 A. Yes.

3 Q. And then the next sentence
4 says:

5 "During the resistance phase
6 of SERE training, US military personnel
7 are exposed to physical and psychological
8 pressures," and it says those are SERE
9 techniques, "designed to simulate
10 conditions to which they might be subject
11 if taken prisoner by enemies that do not
12 abide by the Geneva Conventions."

13 Is that accurate?

14 A. You should ask the
15 Department of Defense expert over there.
16 It's his document, not mine.

17 Q. I mean, we -- you know, we
18 may do that, but right now you're the one
19 under oath, so if you can just let me
20 know if that is an accurate sentence?

21 A. I think it is.

22 Q. Is there -- is there some
23 hesitation? Do you think there might be
24 a reason why it's not accurate?

1 was with a special survival training
2 program.

3 Q. Okay. And did that survival
4 training program also simulate conditions
5 to which a person who was experiencing
6 the program might be subject to if taken
7 prisoner by enemies that did not abide by
8 the Geneva Conventions?

9 A. Yes.

10 Q. The next sentence says:

11 "As one JPRA instructor
12 explains, SERE training is based on
13 illegal exploitation under the rules
14 listed in the 1949 Geneva Conventions
15 relative to the treatment of prisoners of
16 war of prisoners over the last 50 years."

17 Is that accurate?

18 A. I don't know who determines
19 what's legal and illegal, but the
20 techniques were to represent what we
21 thought our enemy might do if they
22 weren't adhering to the Geneva
23 Conventions.

24 Q. So the techniques were

1 simulating violations of the Geneva
2 Conventions?
3 A. Possibly.
4 Q. Now, the next paragraph in
5 this document says:
6 "Typically those who play
7 the part of interrogators in SERE school
8 neither are trained interrogators nor are
9 they qualified to be."
10 Do you see with that
11 sentence?
12 A. Typically. Typically that's
13 accurate.
14 Q. It says:
15 "These role players are not
16 trained to obtain reliable intelligence
17 information from detainees."
18 Is that accurate?
19 A. Typically that's accurate.
20 Q. And it says:
21 "Their job is to train our
22 personnel to resist providing reliable
23 information to our enemies."
24 Is that correct?

1 A. Yes.
2 Q. "As the Deputy Commander for
3 the Joint Forces Command, JPRA's highest
4 headquarters put it, 'The expertise of
5 JPRA lies in training personnel how to
6 respond and resist interrogations, not in
7 how to conduct interrogations.'"
8 Is that accurate?
9 A. Yes.
10 Q. Thank you.
11 So prior to 9/11, did you
12 ever discuss with anyone the possibility
13 of using this list of SERE techniques to
14 actually interrogate prisoners?
15 MR. SMITH: Objection.
16 BY MR. LAVIN:
17 Q. You can answer.
18 THE WITNESS: Am I supposed
19 to answer?
20 MR. SMITH: Yes, sir.
21 THE WITNESS: No, I did not.
22 BY MR. LAVIN:
23 Q. Okay. Do you remember the
24 first time you discussed with someone the

1 possibility of using SERE techniques in a
2 real life interrogation?
3 A. I do.
4 Q. Was that person Dr. Mitchell
5 that you discussed that with?
6 A. He was one of them.
7 Q. Do you remember roughly the
8 timeframe which you had this first
9 conversation?
10 A. I do.
11 Q. When was that?
12 A. June 2002.
13 Q. So prior to that time, you
14 don't recall ever discussing the use of
15 SERE techniques in a real world
16 interrogation?
17 A. No.
18 Q. Now, after 9/11, I believe
19 the CIA commissioned Dr. Mitchell to
20 review a document that has been described
21 as the Manchester manual.
22 Do you know what I'm
23 referring to?
24 A. I do.

1 Q. Did you aid Mr. Mitchell in
2 that review?
3 A. I did.
4 Q. And do you recall how you
5 became involved in reviewing the
6 Manchester manual?
7 A. I do.
8 Q. How did that come to happen?
9 A. I was contacted by first a
10 person in the CIA and then by
11 Dr. Mitchell who had asked for permission
12 from the Department of Defense to come
13 and help them.
14 Q. And that permission was
15 granted?
16 A. Yes.
17 Q. And so did you and
18 Dr. Mitchell produce a paper that was
19 titled, "Recognizing and Developing
20 Countermeasures to Al-Qaeda Resistance
21 Training to Interrogation Techniques, A
22 Resisting Training Perspective"?
23 A. Yes.
24 Q. And I think -- I think that

1 document was marked as Exhibit 9 at
2 Dr. Mitchell's deposition, or a redacted
3 version of that document.

4 Do you have that or would
5 you like our copy?

6 MR. SMITH: We'll take it
7 just to move things along.

8 MR. SCHUELKE: Thank you.

9 BY MR. LAVIN:

10 Q. Now, do you recognize this
11 document?

12 A. I recognize that title.

13 Q. If you -- if you turn to
14 page 2 of this document, which is United
15 States Bates 001149, if you want to just
16 look at the executive summary to refresh
17 your recollection. I wanted to ask you a
18 question about it.

19 Now, I just want to ask
20 about a sentence in there where I believe
21 you and Dr. Mitchell wrote:

22 "We are familiar with how
23 hostile countries approach interrogation
24 and knowledgeable about how trained

1 high risk of capture course, and
2 additionally conducted exercises, known
3 exercises, often to prepare them for
4 specific missions.

5 In the course of this work,
6 we had to review and be spun up on a lot
7 of intel regarding the environment
8 they're going into, the groups that might
9 hold them captive, their techniques,
10 procedures, their TTP.

11 Q. I'm sorry, what does TTP
12 mean?

13 A. Techniques, tactics and
14 procedures.

15 Q. Oh. Thank you.

16 A. So that if they were
17 captured, they could take care of
18 themselves.

19 So as a result, we were
20 quite current on the various terrorist
21 groups, hostile governments, and these
22 scenarios would be constructed in a way
23 that the operator would go into a
24 training scenario that was realistic,

1 captives organize their resistance
2 efforts."

3 And what I wanted to ask you
4 about is: How did you become familiar
5 with how hostile countries approached
6 interrogation?

7 A. Could you repeat that? I
8 didn't hear the last part.

9 Q. Sure. How did you become
10 familiar with how hostile countries
11 approached interrogation?

12 A. So Department of Defense,
13 you'll have to help me here because I
14 don't want to step across a line.

15 Q. Do you want to take a minute
16 to consult with them?

17 A. No, I'm ready.

18 This pertains more
19 particularly to Special Mission Units
20 than it does standard SERE training
21 students.

22 We, the Joint Personnel
23 Recovery Agency, trained specific Special
24 Mission Units in what we would call their

1 they would be captured and they would be
2 confronted by as realistic as possible
3 the enemy that they might face. In order
4 to do that, you have to understand these
5 things.

6 Q. And why would -- why would
7 familiarity with how hostile countries
8 approach interrogation, why would that
9 inform a paper on countermeasures for the
10 United States to use against Al-Qaeda
11 captives?

12 A. You lost me.

13 Q. Sure. So you're providing
14 here, if I'm understanding it correctly,
15 a summary, and it says that it suggests
16 methods for recognizing sophisticated
17 resistance to interrogation techniques
18 that are being used, as well as it
19 provides how to -- some kind of
20 suggestion as to how to develop
21 countermeasures to that resistance
22 training.

23 A. Correct.

24 Q. What I'm trying to

1 understand is, you're -- you're
2 explaining here, I believe, your
3 qualifications to provide that type of --
4 of analysis. And you're including in
5 here your combined 32 years of experience
6 in providing operational support to
7 detained US personnel, training special
8 operations personnel as you were
9 describing, debriefing hostages as we
10 talked about, and then you say:

11 "We're familiar with how
12 hostile countries approach
13 interrogation."

14 And I'm -- I'm just trying
15 to understand why the way hostile
16 countries approach interrogation is
17 relevant to the developing of
18 countermeasures for the United States to
19 use.

20 MR. SMITH: Objection.
21 You may answer the question.

22 THE WITNESS: Well, do you
23 understand the history of this
24 Manchester manual?

1 BY MR. LAVIN:

2 Q. I understand -- I understand
3 some of its history. You know, I don't
4 need you to get into its history.

5 A. I don't think you can -- I
6 don't think I can answer your question
7 without explaining to you what happened.

8 Q. Okay. I don't mean to cut
9 you off.

10 A. No, I didn't feel cut off.

11 MR. WARDEN: If the witness
12 needs a minute, we'll be happy to
13 consult with him on this.

14 MR. LAVIN: Sure. Why don't
15 we do that?

16 MR. WARDEN: At least
17 vis-à-vis the Manchester manual.

18 MR. LAVIN: Yeah.
19 Absolutely. Let's do that.

20 So can we go off the record?

21 THE VIDEOGRAPHER: The time
22 is 11:22 AM. We are now off the
23 record.

24 (Recess.)

1 THE VIDEOGRAPHER: We're now
2 back on the video record. The
3 time is 11:38 AM.

4 BY MR. LAVIN:

5 Q. So could you generally
6 explain to me how you came to write this
7 document?

8 A. Yes. To do that, I'll need
9 to give you a little background on it.

10 The document was captured in
11 a raid --

12 MR. SMITH: Which document,
13 sir?

14 THE WITNESS: The Manchester
15 manual. They discovered that it
16 had been stolen from the Army
17 Special Operations School at Fort
18 Bragg and it contained
19 instructions for resistance to
20 interrogation, most of it the same
21 material that is taught in that
22 highly classified SMU training
23 program that we talked about
24 prior.

1 Dr. Mitchell, I believe, was
2 already -- I know he was already
3 working on a contract with the
4 CIA, and they asked him to look at
5 it once they determined that it
6 would probably be significant. He
7 in turn asked for them to contact
8 me to come and go over it with
9 him.

10 So as I had already told
11 you, someone from the agency
12 called me, and then I subsequently
13 talked to Jim and got permission
14 to go back and we reviewed the
15 manual.

16 We made the assumption that
17 if they had the manual, they were
18 smart enough to know it was useful
19 and were already employing it. So
20 we identified, you know, the
21 impact that it could have, and we
22 also recommended to them ways that
23 they could identify if the bad
24 guys were using it to defend

1 themselves during interrogation.

2 That's completely redacted
3 out of here, but I can tell you
4 that the countermeasures that were
5 recommended consisted of no
6 coercive pressures, physical or
7 otherwise, they were all
8 consistent with the Geneva
9 Conventions because that -- we
10 didn't know anything different at
11 the time. That document then was
12 disseminated quite widely.

13 BY MR. LAVIN:

14 Q. I'm sorry, which document?

15 A. This document.

16 Q. The review document?

17 A. The review that we did.

18 MR. SMITH: Exhibit No. 9?

19 THE WITNESS: Yeah.

20 Did that answer your
21 question?

22 BY MR. LAVIN:

23 Q. It did give me a great deal
24 of information on -- on how this document

1 came to be, so that does answer my
2 question.

3 I have another question,
4 which is, you know, to the extent that
5 you remember, why would the question of
6 how hostile countries approach
7 interrogation, which you wrote in the
8 executive summary at Bates 1149.

9 A. Yeah.

10 Q. Why would that have informed
11 either the training aspect in terms of
12 recognizing countermeasures -- sorry, in
13 terms of recognizing resistance training
14 or why would it have informed the
15 development of countermeasures to that
16 resistance training?

17 A. Well, if you don't -- if you
18 know nothing about how the enemy will
19 question you but you come up with a
20 training program nonetheless, you have no
21 assurity (sic) whatsoever it's going to
22 be effective or help anyone, and that
23 isn't the way DOD operates.

24 So you gather all the intel

1 you can and you find out how they
2 operate, how they question, what they do
3 and what their -- to the best you can,
4 what their vulnerabilities are, and you
5 develop countermeasures. It's part and
6 parcel of everything that's done in SERE
7 training, resistance training.

8 Q. And the countermeasures you
9 proposed here, I believe you said, did
10 not involve physical coercion?

11 A. They did not.

12 Q. And they were -- they were
13 consistent with the Geneva Conventions?

14 A. They were.

15 Q. And did any of them overlap
16 with any methods used in the SERE
17 schools?

18 A. Used --

19 Q. In the SERE schools.

20 A. I can't answer that
21 question. It's classified.

22 Q. All right. So just -- just
23 if you can answer, when we talked about
24 the list of SERE techniques, did anything

1 on that list appear as a proposed
2 countermeasure in this document?

3 A. No, because there were no
4 physical pressures. Unless I
5 misunderstand, I think you're talking
6 about a list of physical pressures.

7 Q. I am. Thank you.

8 A. No, they weren't included in
9 there.

10 Q. Thank you.

11 Now, did you complete this
12 review -- when did you complete this
13 review, this document, Exhibit 9?

14 A. I don't know. It was before
15 June of 2002, but it was in 2002
16 sometime, I think.

17 Q. Could it have been around
18 January?

19 A. It could have been. I don't
20 remember.

21 Q. Now, did you -- did you do
22 anything further in terms of speaking
23 about or training about this review in
24 Exhibit 9 before June 2002?

1 training?
 2 MR. SMITH: Objection.
 3 THE WITNESS: I don't
 4 remember a specific example.
 5 BY MR. LAVIN:
 6 Q. And aside from a specific
 7 example, do you remember it ever having
 8 happened?
 9 A. No. It could have because
 10 it happens.
 11 Q. And do you recall ever
 12 encouraging that capture shock be
 13 prolonged?
 14 A. No.
 15 Q. All right.
 16 MR. LUSTBERG: How much time
 17 do we have?
 18 THE VIDEOGRAPHER: We have
 19 like about seven minutes.
 20 MR. LUSTBERG: Sorry.
 21 BY MR. LAVIN:
 22 Q. In July 2002, did you
 23 contract with the CIA based on
 24 Dr. Mitchell's recommendation?

1 A. The CIA asked me to come
 2 work for them in 2002.
 3 Q. Was that around July?
 4 A. Yes.
 5 Q. And what did you understand
 6 your role to be under that contract?
 7 A. I'm not sure what I can talk
 8 about and what I can't.
 9 Q. Sure. Do you want to
 10 consult for a moment?
 11 A. Well, I can start talking
 12 and they can stop me if I get out of
 13 line.
 14 MR. WARDEN: Well, why don't
 15 we take a break and --
 16 MR. SMITH: Yeah. Let me
 17 just -- sure.
 18 I thought the rule was that
 19 if the witness fully and
 20 completely answers the question,
 21 if you have a problem for the
 22 witness to do that, you should
 23 tell us, because otherwise he's
 24 going to answer it.

1 MR. WARDEN: Sure, yes.
 2 Yes.
 3 MR. SMITH: So let's have
 4 the question read back.
 5 THE WITNESS: Okay.
 6 MR. LAVIN: Sure.
 7 MR. WARDEN: I think it's
 8 a -- I think it's a broad enough
 9 question for the witness to start,
 10 and if we have a question, we'll
 11 put up a stop sign.
 12 MR. SMITH: Fair enough.
 13 MR. WARDEN: And if you'd
 14 like me to consult with him, we
 15 can do that as well.
 16 MR. SMITH: 100 percent.
 17 MR. WARDEN: One issue we're
 18 trying to avoid is interposing
 19 unnecessary objections to broad
 20 questions that could conceivably
 21 elicit classified information.
 22 MR. LAVIN: And we very much
 23 appreciate that.
 24 BY MR. LAVIN:

1 Q. But certainly if you feel
 2 uncomfortable at any time or you need to
 3 consult, just -- just let us know.
 4 A. Well, I did.
 5 Q. Yeah.
 6 A. I mean, if I reach that
 7 point, that's why I did that.
 8 Q. Sure.
 9 A. Okay.
 10 MR. SMITH: Let's have the
 11 question read back.
 12 THE WITNESS: All right.
 13 (Pertinent portion of the
 14 record is read.)
 15 MR. SMITH: Note my
 16 objection.
 17 BY MR. LAVIN:
 18 Q. You can answer.
 19 A. So I received a call from
 20 someone in the CIA asking if I could come
 21 back to CIA headquarters. So I got
 22 permission from -- from my commander and
 23 I went back.
 24 When I arrived there -- this

1 is 15 years ago, so I don't remember a
2 lot of details. I'll tell you everything
3 I remember.

4 I remember arriving there, I
5 remember being met by Dr. Mitchell and
6 some CIA officers. I remember going into
7 a room and being told that there was a
8 specific detainee that had been captured.
9 They informed me that efforts to
10 interrogate that individual had proved
11 less than fruitful, and in fact, had come
12 to a standstill, that they had credible
13 evidence that Al-Qaeda had fissionable
14 nuclear material and were about to launch
15 a nuclear attack on the United States and
16 that this man had the information that
17 could unlock that threat, that
18 Dr. Mitchell had been asked to help
19 interrogate this person using techniques
20 that we had -- that we were familiar with
21 and that he had told them about that were
22 used in the SERE schools and would I
23 help.

24 I think I made a phone call

1 to my wife and my family and talked to
2 them, in terms that I could about this,
3 and I thought about it. This all took
4 place in about 20 minutes because they
5 were ready to leave the country, and I
6 said, If that's what my country wants me
7 to do, I'll do it.

8 I was told that everything
9 that we did would be under the auspices
10 of the Justice Department and the CIA and
11 that we would work directly for the CTC
12 Unit within the CIA and we would take
13 orders from them, that we would be
14 deployed and that we would -- we would
15 wait, and while we were waiting, prepare
16 ourselves with intel briefings and other
17 preparation, and if the Justice
18 Department approved the plan that the CIA
19 was going to put together, that we would
20 implement that plan.

21 I agreed to do that. And
22 they took us to the contracting office
23 and we sat there while someone hammered
24 out a contract. We were -- I, at least,

1 I can't speak for Jim, but I hadn't done
2 this before so I was unfamiliar with it.
3 And there was a psychologist who works
4 for the CIA there with us, and I turned
5 to him and I said, I'm not sure, you
6 know, how this is done, and he said,
7 These are standard contracts, you know.
8 And they said, How much are you going to
9 change? And I said, I have no idea.
10 This guy said, This is the standard rate
11 for somebody like you. I said, Okay.
12 They said, Hurry, hurry, we finished the
13 contract. I signed it.

14 I talked to the military
15 liaison that was in the CIA and he told
16 me that he would call JPRA and have me
17 detailed there until such time as I would
18 be -- because I had to give up my
19 position in the Department of Defense to
20 do this.

21 And then we went into a
22 series of a bunch more meetings, and
23 then, I don't remember exactly when, but
24 we were on a plane leaving the country

1 shortly after that.

2 That's what I remember.

3 Q. And --

4 MR. SMITH: Hold that
5 thought one second.

6 THE VIDEOGRAPHER: Excuse
7 me, Counsel, there's less than a
8 minute on the tape.

9 MR. LAVIN: Let's go off the
10 record.

11 THE VIDEOGRAPHER: The time
12 is 12:17 PM. We are now off the
13 video record.

14 This ends Disk No. 1.

15 (Recess.)

16 THE VIDEOGRAPHER: We are
17 now back on the video record. The
18 time is 12:21 PM.

19 This begins Disk No. 2.

20 MR. SMITH: Let me just
21 state for the record that while we
22 were off the record, the witness
23 asked for permission, directed the
24 question to Mr. Warden, to

1 identify the detainee who he
2 referred to in his previous
3 answers, and Mr. Warden said that
4 the witness was permitted to do
5 it.

6 Am I correct, Mr. Warden?

7 MR. WARDEN: That's correct.

8 MR. SMITH: So if you want
9 to supplement your answer, you
10 can, sir, and should.

11 THE WITNESS: We were told
12 that they had captured Abu
13 Zubaydah. We were taken into a
14 room where analysts and trackers
15 who had been following this man
16 for years, months, I don't know, a
17 long time, gave us detailed
18 briefings on his affiliation with
19 Al-Qaeda, the fact that he ran, he
20 called them, a training camp
21 probably used the techniques in
22 the Manchester manual, had given
23 monetary support to KSM for the
24 9/11 attacks, had planned numerous

1 attacks pending for United States
2 and the Country of Israel, was a
3 high level facilitator in addition
4 to running the training camp, and
5 they believed would know how to
6 stop this impending nuclear
7 attack.

8 That's what they told us
9 about. We learned a lot more
10 about him when we got onsite and
11 were waiting for approvals, but he
12 was a bad guy.

13 BY MR. LAVIN:

14 Q. And before you got onsite,
15 were you involved in any discussions
16 about how the interrogation of Abu
17 Zubaydah --

18 A. Before when?

19 Q. Before you got onsite, when
20 you were still in the United States.

21 A. No.

22 Q. Once you got onsite, were
23 you involved in any questions or
24 conversations about what interrogation

1 method would be used?

2 A. I was.

3 Q. And did you have any role of
4 selecting the list of interrogation
5 methods that were to be used on Abu
6 Zubaydah?

7 A. I'll explain to you how that
8 happened.

9 Q. Please do.

10 A. I was told that, in meetings
11 that occurred before I arrived, the worry
12 and intensity had reached a peak because
13 the CIA had been sorely chastised and
14 felt culpable about 9/11, and they were
15 desperately, earnestly trying to prevent
16 another attack, and the interrogations of
17 Zubaydah had broken down. They had been
18 considering alternative approaches, some
19 of which I were told were, quote, beyond
20 the pale. I don't know the specifics,
21 but I guess it was anyone could throw
22 anything out.

23 I don't know exactly know
24 how it happened, but Jose Rodriguez --

1 whoops. Is that okay?

2 MR. WARDEN: Yeah. Jose
3 Rodriguez is fine.

4 THE WITNESS: Okay. Jose
5 Rodriguez, who already had a
6 relationship with Jim, they had a
7 discussion about the tactics that
8 are used at the SERE school to
9 train, not just the standard
10 folks, but the special operators
11 in particular, and I was told that
12 Jim asserted to him that these
13 techniques had been used for
14 decades without ill effect, and
15 even though the students knew they
16 were in training, they still
17 tended to give up information they
18 were supposed to protect and that
19 that might be something that they
20 could use that would provide more
21 effectiveness and predictable
22 safety.

23 I was told that -- by Jim
24 that he didn't know they wanted

1 him to do it, and later Jose asked
2 him to do it. And he initially
3 demurred and did not want to do
4 it. And then he was leveraged, I
5 think in a reasonable way by staff
6 at the CIA, that he was the one
7 that they wanted, he was the one
8 that was -- that had the
9 qualifications that they wanted
10 and wouldn't he go do it. If he
11 wouldn't do it, who were they
12 going to get to do it I think
13 those were the words. So he had
14 said he would.

15 And Jose told me that he
16 asked Jim what he needed and Jim
17 said that he would like me to help
18 him. And that's what initiated me
19 being called.

20 So I'm there, and we had
21 these initial meetings, and at
22 some point, I don't remember
23 exactly when, Jim explained to me
24 what I just told you. Jim and I

1 went into a cubicle, sat down at
2 a -- he sat down at a typewriter
3 and together we wrote out a list
4 that I've seen in the documents
5 here that was submitted as
6 techniques that we thought had
7 worked well in the SERE school and
8 we were comfortable with what had
9 happened there, and so they were
10 given to the CIA. I don't know
11 who they went to.

12 At that time, they told --
13 the CIA told us that they were
14 going to do their own due
15 diligence with the DOD and the
16 Justice Department before a
17 decision was made to use them. If
18 they weren't going to use them,
19 they still wanted Jim and I to
20 question Abu Zubaydah using just
21 social influence techniques.

22 They again reiterated -- we
23 had a discussion with them about
24 what our qualifications were

1 again, and they reiterated to us
2 that we had the qualifications
3 they wanted. They understood that
4 we hadn't done interrogations of
5 live terrorists before, but we
6 discussed the other experience and
7 qualifications we had, and so we
8 came to an agreement.

9 And then we were shot out of
10 a cannon to a location, and for
11 about a month, we prepared for
12 whatever they were going to ask us
13 to do.

14 The environment was -- was
15 very electrified and people -- we
16 were in a running gun battle with
17 Al-Qaeda at the time, and so we
18 just sat because we had no
19 authorizations to do anything.

20 And then -- then they
21 finally came, which is probably --
22 you're going to cover this later,
23 but that was -- that was what
24 happened. It happened very fast

1 and we didn't have a lot of time
2 to think about it. But I had been
3 in the military my whole life
4 and -- and I was committed to and
5 used to doing what I was ordered
6 to do. And I -- that's the way I
7 considered this circumstance and
8 so I went.

9 BY MR. LAVIN:

10 Q. And the document that's been
11 previously marked Exhibit 17 --

12 A. Could you speak up a little
13 bit?

14 Q. Sure, sorry. The document
15 that's been previously marked Exhibit 17,
16 I just want to confirm if that's -- if
17 that's the document --

18 A. Okay.

19 Q. -- that you were discussing.

20 MR. LUSTBERG: Do you have
21 it, Jim?

22 MR. LAVIN: 17.

23 MR. SMITH: Here's mine.

24 The witness has mine before him.

1 He can use it.
 2 MR. LAVIN: Oh.
 3 THE WITNESS: This looks
 4 like it's been cut and pasted.
 5 It's askew on the page. It's been
 6 15 years, but I recognize what's
 7 written here, and I think it
 8 probably is what we typed up. I
 9 don't know for certain, but --
 10 BY MR. LAVIN:
 11 Q. And it says at the top of
 12 the second page there:
 13 "Below are the descriptions
 14 of potential physical and psychological
 15 pressures discussed in the July 8, 2002
 16 meeting."
 17 Do you have any recollection
 18 of that meeting?
 19 A. No.
 20 Q. All right. But you remember
 21 that after the meeting, or -- let me
 22 rephrase. Let's leave the meeting
 23 outside of this.
 24 You remember that at some

1 point, you and Dr. Mitchell typed up a
 2 list of --
 3 A. Yes, I remember.
 4 Q. And do you recall how you
 5 and Dr. Mitchell settled on these
 6 techniques?
 7 A. No. I don't recall the
 8 conversation over the mentation, no.
 9 Q. Do you have any sense of
 10 whether he proposed the techniques and
 11 you agreed to them or you proposed them
 12 and he agreed to them or some other
 13 arrangement?
 14 A. We did it together.
 15 Q. Okay. Now, it says:
 16 "The aim of using these
 17 techniques is to dislocate the subject's
 18 expectations concerning how is he apt to
 19 be treated and instill fear and despair."
 20 Does that -- does that sound
 21 like something that you or Dr. Mitchell
 22 would have written?
 23 A. Yes.
 24 Q. Can you explain that

1 sentence to me?
 2 A. It's pretty self-explanatory
 3 but I'll give it a run.
 4 Q. Sure.
 5 A. When a person is captured,
 6 they're highly alert and trying to figure
 7 out what's going to happen to them. If
 8 they've been trained, they have some
 9 idea. If they haven't been trained, they
 10 wonder, they're not sure. This leaves
 11 them in a less than organized state, and
 12 if you can capitalize on that with
 13 vetted, legal, authorized techniques,
 14 you're more likely to catch them off
 15 balance and have them reveal something
 16 that would help you stop an attack than
 17 not.
 18 Q. And I think earlier we were
 19 talking about the -- that Manchester
 20 manual review where you and Dr. Mitchell
 21 proposed countermeasures, but
 22 countermeasures that did not involve
 23 physical coercion; is that right?
 24 A. That's correct.

1 Q. And then this would be a
 2 list of techniques that do involve
 3 physical coercion; is that right?
 4 A. Yes.
 5 Q. Did you ever attempt the
 6 nonphysically coercive techniques on Abu
 7 Zubaydah?
 8 A. Yes.
 9 Q. And did you attempt them
 10 before you had proposed this list of
 11 physically coercive techniques?
 12 A. Yes. And Abu Zubaydah was
 13 interrogated by the FBI and CIA officers
 14 extensively using social influence, the
 15 Reid method, and a variety of non-
 16 physical pressures for a great amount of
 17 time, and we also used the model before
 18 on Zubaydah before we used any of these
 19 authorized physical techniques.
 20 Q. And before you proposed
 21 these authorized physical techniques, did
 22 you make some proposal that the
 23 countermeasures described with that
 24 metaphor in the Manchester manual review

1 be used on Abu Zubaydah?

2 A. It was understood in the
3 discussions we had with the office of the
4 CIA that these techniques would be used
5 as a temporary vehicle to get to social
6 influence techniques, so yes.

7 Q. So the idea would be that he
8 would first be transitioned by these
9 techniques, which would instill fear and
10 despair, and --

11 A. No, that's not accurate.
12 Let me explain.

13 Q. Please do.

14 A. The first thing you do is
15 ask them if they'll cooperate in a
16 neutral way. It's called a neutral
17 growth. You explain to them what you
18 want and what you believe they have and
19 you ask them to cooperate, not just once,
20 but you do that over the course of an
21 indeterminate amount of time, ten
22 minutes, an hour, two days, it just
23 depends. And if they don't cooperate,
24 you give them a bridging question,

1 something to -- for them to ponder and
2 hopefully worry about a little bit before
3 you see them again.

4 And then when you return,
5 you ask them the bridging question, and
6 you ask them if they'll cooperate. You
7 use social influence techniques.

8 If those don't work, then
9 you, if authorized, can choose to use
10 these sanctioned and authorized
11 techniques. They would be used in an
12 order of least intrusive first, and you
13 would constantly be checking to see if
14 the person was willing to cooperate, but
15 that would be done before they were used.

16 Q. Why would you -- why would
17 you begin with the least intrusive?

18 A. What?

19 Q. Why would you begin with the
20 least intrusive technique?

21 A. Several reasons. Or at
22 least a couple. I don't want you
23 grilling me on a --

24 Q. Sure.

1 A. First of all, that's the
2 proper thing to do. The goal is to get
3 the person to cooperate and talk. The
4 goal is not to hurt, punish, never to
5 inflict severe pain or suffering. That
6 is not why you're there.

7 You're there to prevent, in
8 this case, a catastrophic nuclear attack
9 against your own country, your wife, your
10 children, your grandparents, you, if I
11 may emphasize a little bit.

12 But you don't start that way
13 because it's often not needed, and in the
14 work that the CIA asked us to do, it
15 often was not needed. More often than it
16 was used, it was not needed.

17 So when you do decide that
18 you've got to try something else, you're
19 thinking about what is the right thing to
20 do in terms of me, Bruce Jessen, and what
21 I think what's right, not that that
22 counts for anyone else or is measurable
23 on any other scale you might come up
24 with, I'm just talking about my own self.

1 And you also think about the
2 detainee. If I want to get information
3 from you, Dror?

4 Q. Sure.

5 A. If I want to get information
6 from you, Dror, I don't want to slap you
7 and I don't want to wall you, I don't
8 want to waterboard you, even if you're my
9 enemy. Even if you are this guy who we
10 believe has information that is going to
11 devastate our country. We want you to
12 cooperate. We know that you're a soldier
13 of some type, you're a terrorist, but
14 these men were like Jedi knights. These
15 men that we worked on were utterly and
16 totally committed. They had the faith
17 that most people of faith wish they had.
18 Unwaiverible (sic). And they're strong,
19 most of them, pretty strong, and they're
20 intelligent and they have their own code
21 of moral ethics and rapport.

22 If you walk in a cell like
23 you have no moral compunction and you're
24 out of control and you start slapping

1 somebody around, you push your chances of
2 getting information farther away from
3 you, you don't bring them closer.

4 No one likes to be the
5 recipient of physical pressures. I've
6 had all these things done to me multiple
7 times. Not by a foreign hostile
8 government, but certainly in very
9 realistic ways. And I know how I react.

10 So you want them to talk, so
11 you start with the least coercive
12 pressure and you see if that is enough to
13 motivate them to talk, and that's what we
14 did.

15 Q. Thank you.

16 MR. LAVIN: I think this
17 might be a good time to break for
18 lunch.

19 Thank you.

20 THE VIDEOGRAPHER: The time
21 is 12:43 PM. We are now off the
22 video record.

23 (Lunch recess.)

24 THE VIDEOGRAPHER: The time

1 Q. They might have more fear or
2 more despair if it were done -- sorry,
3 I'll just finish my question -- if it
4 were done by a hostile government?

5 A. Perhaps.

6 Q. Sorry. Did you have an
7 impression when you and Dr. Mitchell put
8 together these lists of techniques,
9 whether the CIA had already made a
10 decision as to whether it was going to
11 use physical coercion on Abu Zubaydah?

12 A. I didn't know.

13 Q. Did there come a time when
14 you understood the CIA to have made a
15 decision to use physical coercion on Abu
16 Zubaydah?

17 A. Yes.

18 Q. Do you remember roughly when
19 that was?

20 A. Roughly.

21 Q. When was that?

22 A. About a month after I left
23 Langley.

24 Q. So were you at the site at

1 is now 1:22 PM. We are now back
2 on the video record.

3 BY MR. LAVIN:

4 Q. So I think before we broke,
5 you testified that no one likes to be the
6 recipient of physical pressures, but that
7 you've had all these things done to you
8 multiple times, not by hostile
9 governments, but certainly in very
10 realistic ways.

11 In your mind, is there a
12 difference between having these things
13 pressures done to you by a hostile
14 government versus in training?

15 A. In terms of how they're
16 employed, no; in terms of where you're at
17 emotionally, I think it is different.

18 Q. How? How so?

19 A. I think you'd have more
20 concern about the outcome.

21 Q. Like what -- what kind of
22 concern?

23 A. I don't know, it depends on
24 the person.

1 the time that that decision was made?

2 A. I was at a site at the time.

3 Q. And the proposal of the
4 techniques was made at Langley?

5 A. I don't understand your
6 question.

7 Q. Sure. When you and
8 Dr. Mitchell put together the list of
9 techniques, were you at Langley?

10 A. Yes.

11 Q. If we can return to the -- I
12 think it's Exhibit 27, the Armed Services
13 Committee report. I'm looking at page
14 24. Now, I want to ask you about that
15 paragraph that's right after the redacted
16 block.

17 A. Okay.

18 Q. So it says here that -- that
19 you said that:

20 "The use of physically
21 coercive techniques may be appropriate
22 when: 1, there is good reason to believe
23 that the individual has perishable
24 intelligence; 2, the techniques are

1 going on.

2 Q. The "watched what was going
3 on," that would happen after the
4 interrogation began?

5 A. No, it happened while it was
6 occurring.

7 Q. Do you -- returning to the
8 second difference that Dr. Ogrisseg
9 identified. He says:

10 "There was a variance in
11 injuries between a SERE school student
12 who enters training and a detainee who
13 arrives at an interrogation facility
14 after capture."

15 Would you agree that there's
16 a difference between SERE trainees and
17 detainees?

18 A. I don't know of any data on
19 that. I don't know where Ogrisseg got
20 his.

21 Q. Well, let me ask you: When
22 you -- when you were overseeing or
23 monitoring or involved in some way in the
24 SERE program, did you ever see a SERE

1 A. No.

2 Q. You would not agree?

3 A. I would not agree.

4 Q. Can you explain?

5 A. A detainee could stop
6 interrogation any time, all they had to
7 do was cooperate, and during each
8 interrogation, there were medical,
9 psychological, administrative and
10 intelligence staff, as well as guards,
11 who were charged with a specific
12 responsibility that if they felt anything
13 was not authorized or if there was a
14 physical or psychological threat to the
15 detainee, that they would -- could and
16 would stop it.

17 Q. Do you think there were ever
18 points in which detainees were actually
19 unable to stop an interrogation because
20 they could not provide the answer to the
21 question that would end their
22 interrogation?

23 A. Never in my presence.

24 Q. To the best of your

1 trainee who was being subjected to
2 interrogation pressures while they had an
3 open wound?

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

5 Q. Did you ever see any kind of
6 SERE trainee participate in a training
7 when they had recently received a gun
8 shot wound?

9 A. I never saw a SERE student
10 who had contributed to the death of 3,000
11 Americans and possibly had the knowledge
12 of where fissionable nuclear material was
13 that could destroy a city in the United
14 States either.

15 Q. Understood. Would you agree
16 that SERE training was voluntary?

17 A. Yes.

18 Q. And that it could be
19 terminated by the student at any time?

20 A. Yes.

21 Q. Would you agree that when a
22 detainee was in CIA custody, that was not
23 voluntary and could not be terminated by
24 the detainee at any time?

1 knowledge, did that ever happen in the
2 program?

3 MR. SMITH: Objection.

4 BY MR. LAVIN:

5 Q. Let me -- let me rephrase
6 that.

7 A. I have -- I have no
8 knowledge.

9 MR. SMITH: Excuse me, he's
10 going to rephrase his question.

11 THE WITNESS: Oh, okay.

12 BY MR. LAVIN:

13 Q. To the best of your
14 knowledge, did that ever happen in the
15 context of the CIA's formal interrogation
16 and detention program?

17 MR. SMITH: Objection.

18 THE WITNESS: I have no
19 knowledge of that. I do know that
20 there were multiple efforts by the
21 CIA to interrogate and gain
22 intelligence that I was not
23 involved in and knew nothing about
24 until I started reading the

1 documents. The effort that I was
2 involved in was specifically for
3 Abu Zubaydah only, and then they
4 asked us to help with someone else
5 and then they asked us to help
6 with someone else.

7 But these other efforts that
8 were going on at the same time in
9 other places, I had no knowledge
10 of at the time I was working with
11 Zubaydah.

12 MR. SMITH: Excuse me one
13 second.

14 I would ask, Mr. Warden, is
15 the witness permitted to identify
16 the specific detainees that the
17 government asked him to work with?

18 MR. WARDEN: The witness may
19 identify the specific detainees
20 that he was involved in
21 interrogating and he applied the
22 techniques we've been discussing
23 here today. So yes, he may
24 discuss -- identify those

1 detainees, there are 119 detainees
2 that have been publicly
3 acknowledged to be part of the CIA
4 program. Those detainees can be
5 discussed if Dr. Jessen had any
6 connection with them.

7 THE WITNESS: Okay.

8 MR. SMITH: So you can
9 supplement your answer, Doctor.

10 THE WITNESS: As I said to
11 you, I was asked to go and work on
12 Abu Zubaydah. Later, we were
13 asked to interrogate Nashiri, KSM.

14 While those efforts were
15 taking place, I learned,
16 subsequently to interrogating Abu
17 Zubaydah, that other efforts,
18 other people, which predated my
19 involvement -- mine and Jim's
20 involvement, were already
21 interrogating, questioning people
22 at other locations. I had nothing
23 to do with any of those efforts
24 except for one, which you'll

1 undoubtedly will talk to me about,
2 Gul Rahman.

3 So I can tell you
4 unequivocally that what you asked
5 me did not happen when I was there
6 and I was present and I was
7 helping interrogate someone. But
8 I can't tell you what happened
9 with all these disparate efforts
10 that were going on because they
11 were compartments and I didn't
12 know.

13 BY MR. LAVIN:

14 Q. Okay.

15 MR. SMITH: For the record,
16 can you identify KSM so the record
17 is clear?

18 THE WITNESS: Sure. Khalid
19 Sheik Mohammed, the mastermind in
20 9/11. Personally trained and
21 nurtured all of the men who flew
22 the jets into the various
23 locations, assisted in other -- a
24 lot of other operations. Arguably

1 the most lethal terrorist that we
2 ever interrogated and that US
3 holds.

4 BY MR. LAVIN:

5 Q. Thank you.

6 Let's turn to the document
7 that was marked as Exhibit 18 in
8 Dr. Mitchell's deposition.

9 A. Do I have that already?

10 Q. I believe your lawyer has
11 it.

12 MR. SMITH: I have my copy,
13 but I don't have the original
14 copy.

15 MR. LAVIN: I apologize.

16 MR. LUSTBERG: That's my
17 bad.

18 BY MR. LAVIN:

19 Q. Just take a moment or as
20 long as you need to familiarize yourself
21 with it.

22 A. Okay. Okay.

23 Q. Have you ever seen this
24 cable before?

1 A. I saw it just recently with
2 my attorneys.

3 Q. And you don't recall having
4 seen it before then?

5 A. No.

6 Q. You don't -- on the first
7 page, it says:

8 "While the techniques
9 described in HQS meetings and below are
10 administered to student volunteers in the
11 US in a harmless way with no measurable
12 impact on the psyche of the volunteer, we
13 do not believe we can assure the same
14 here for a man forced through these
15 processes and will be made to believe
16 this is the future course of the
17 remainder of his life."

18 Had that sentiment ever been
19 expressed to you, that there might be a
20 difference between the impact of these
21 techniques on a SERE volunteer trainee
22 versus a subject who is forced through
23 these processes and will be made to
24 believe that this is the future course of

1 Q. So when it says:

2 "We will make every effort
3 possible to ensure that the subject is
4 not permanently physically or mentally
5 harmed, but we should not say at the
6 outset of this process that there is no
7 risk."

8 Would that accurately
9 describe the view that you had as well
10 before Abu Zubaydah's interrogation
11 began, that every effort would be made to
12 prevent permanent physical or mental
13 harm, but that it could not be said at
14 the outset that there was no risk?

15 MR. SMITH: Objection.

16 THE WITNESS: You're trying
17 to put this man's words in my
18 mouth and I didn't say this. What
19 I did say is that we put in -- or
20 the CIA put in precautions so that
21 this didn't happen.

22 BY MR. LAVIN:

23 Q. And in your understanding at
24 the time, keeping in mind those

1 the remainder of his life?

2 A. I don't know who wrote this
3 and I don't know who put that sentence
4 together and I hadn't seen it, as I said,
5 until just recently. No cable gets
6 released throughout going through the
7 Chief of Base, so he may be the one that
8 ultimately wrote it.

9 I didn't have a discussion
10 with him, or at least I don't remember a
11 discussion about these specific terms.
12 You know, I wasn't even allowed on the
13 system at that time, so...

14 Q. Do you remember that being a
15 concern that anyone raised in the meeting
16 that's being discussed here?

17 A. I don't -- I don't remember
18 that being discussed there. But I -- I
19 remember years and years of working at
20 the survival school trying to prevent
21 this kind of thing from happening, and I
22 also know that the CIA puts safeguards in
23 their program, as the SERE schools did,
24 so there wouldn't.

1 precautions that you've just mentioned,
2 did you believe that there was any risk
3 going forward into Abu Zubaydah's
4 interrogation?

5 A. No. If I would have
6 believed that we would do that kind of
7 harm to a person, I wouldn't have done
8 it.

9 Q. Did you think there might
10 even be a small risk that that kind of
11 harm could take place?

12 MR. SMITH: Objection.

13 THE WITNESS: I don't know
14 my precise thoughts, but I know I
15 deliberated with great, soulful
16 torment about this, and obviously
17 I concluded that it could be done
18 safely or I wouldn't have done it.

19 BY MR. LAVIN:

20 Q. Okay.

21 A. And in fact, when it reached
22 a point that Dr. Mitchell and I felt that
23 it was no longer useful, not that it was
24 creating permanent harm, but it was no

1 longer useful, we told them we wouldn't
2 do it anymore, and they told us we had to
3 continue. In the -- in the end, we were
4 able to convince them that it wasn't
5 going to be useful and they eventually
6 stopped. Not because we thought we were
7 doing or instilling permanent harm, but
8 because we thought it was no longer
9 useful. It wasn't done gratuitously.

10 Q. Can you -- can you just
11 explain a little bit why you experienced
12 torment before you made the decision that
13 you would go forward with the
14 interrogation?

15 MR. SMITH: Objection.

16 THE WITNESS: I think any --
17 any normal conscionable man would
18 have to consider carefully doing
19 something like this.

20 When I was called and asked
21 to do this, I paused, I thought, I
22 wondered. I took every precaution
23 that I could. I asked every
24 question that I could. I waited

1 until the weight of the entire
2 nation's judicial system weighed
3 in on it and told us it was legal.
4 I weighed that against the fact
5 that they kept telling me every
6 day a nuclear bomb was going to be
7 exploded in the United States and
8 that because I had told them to
9 stop, I had lost my nerve and it
10 was going to be my fault if I
11 didn't continue.

12 So I thought a great deal
13 about it, sir, and I assume you
14 would have, too, if you would have
15 been in my place and stood up and
16 gone to defend your nation.

17 BY MR. LAVIN:

18 Q. And when you said that you
19 were told it was going to be your fault
20 if you didn't continue, are you referring
21 to something that happened prior to the
22 interrogation or during the
23 interrogation?

24 A. I'm referring to the

1 interrogation of Abu Zubaydah and us
2 saying that we wanted to stop
3 waterboarding and the CIA telling us that
4 we couldn't because we worked for them
5 and they wanted to continue.

6 Q. And it was your and
7 Dr. Mitchell's feelings that it was no
8 longer useful at that stage?

9 A. That's correct. And it was
10 also the opinion of the CIA later when
11 they did due diligence and came out in
12 person and met with us and stopped it.

13 Q. And you and Dr. Mitchell
14 asked them to come out and -- and witness
15 it?

16 A. Yes, we did.

17 Q. And why did you do that?

18 A. Because we wanted someone
19 with authority above the Chief of Base,
20 who also wanted it stopped, onsite, who
21 could talk to those men and women who
22 were having to account to the president
23 about their efforts to stop this nuclear
24 explosion.

1 We were -- we were soldiers
2 doing what we were instructed to do. We
3 knew it was lawful, we knew it was legal,
4 we knew it had been vetted and approved,
5 but we didn't have the power to say stop
6 or go, but we did push back and they
7 listened and reasonably stopped.

8 It was an emotional time,
9 Dror, so don't interpret my emotionality
10 as a personal affront.

11 Q. Not at all.

12 A. But these are serious
13 questions you're asking.

14 Q. Absolutely. And I
15 appreciate your candor in answering them.
16 And again, if -- if it would be helpful
17 to stop at any time, please --

18 A. No, I'm fine.

19 Q. Okay. You said that you --
20 you know, before using these techniques
21 you waited a period for them to be
22 approved?

23 A. Yes.

24 Q. How were those approvals

1 communicated to you?
 2 A. Verbally. The approvals
 3 were sent via cable to the site, and the
 4 Chief of Base called everyone around and
 5 said that the approvals had arrived. We
 6 probably saw the portion that
 7 specifically gave us our marching orders
 8 in terms of what was -- what we could do
 9 and the right and left limits of what we
 10 could do. That was definitely
 11 communicated to us, so I may have seen
 12 that part of it, but I didn't see the
 13 Department of Justice ruling or opinion
 14 or anything like that. I wasn't allowed.
 15 At that -- I hadn't had a
 16 polygraph, I had been sent out before all
 17 of these things could be done, and so I
 18 couldn't get on the system.
 19 Q. I see. Was that -- did you
 20 later take a polygraph and get some
 21 authorization to be on CIA systems?
 22 A. Yes. I later took many
 23 polygraphs and was allowed to get on the
 24 system.

1 Q. Is that -- does the phrase
 2 "green badge" refer to that kind of
 3 authorization?
 4 A. Not necessarily, Dror.
 5 There are two kinds of people that work
 6 for CIA: Blue badge people who are
 7 actual employees, and green badge people
 8 who are contract personnel. They all
 9 work the same, they all receive the same
 10 marching orders. They're governed by the
 11 same chain of command.
 12 We, in our case, worked for
 13 the director who then went to CTC who
 14 then went to Special Mission Unit, who
 15 then went to Renditions and Interrogation
 16 Group, then went to the Chief of Station,
 17 wherever we were, and then to the Chief
 18 of Base, and everything that we did went
 19 through that chain. Every interrogation
 20 plan went through that chain, every
 21 change of plan or use of technique went
 22 through that change, and it was all
 23 authorized.
 24 Q. Just while we're -- we're

1 still on this document. Just towards
 2 the -- actually, on paragraph 3, it says:
 3 "The above said, We defer to
 4 experts, and as requested, ref below --
 5 in paras 4 and 5 -- please find comments
 6 drafted by interrogation team members, IC
 7 SERE psychologists of Ref B concerning
 8 points raised."
 9 Is the reference there to IC
 10 SERE psychologists, to the best of your
 11 knowledge, a reference to Dr. Mitchell
 12 and yourself?
 13 MR. SMITH: Objection.
 14 THE WITNESS: You know, I
 15 didn't write the cable, like I
 16 said. I don't know who they were
 17 referring to. It doesn't have my
 18 name on there.
 19 BY MR. LAVIN:
 20 Q. In -- in July of 2002, were
 21 there other independent contractor SERE
 22 psychologists, to the best of your
 23 knowledge, working for CIA?
 24 A. I wouldn't know that, but I

1 don't know of any.
 2 Q. And were there -- you didn't
 3 know of any?
 4 A. I was working in a
 5 compartment and you don't know anything
 6 outside of your compartment.
 7 Q. And within your compartment
 8 were there other IC SERE psychologists?
 9 A. No.
 10 Q. At the -- at the very end of
 11 that -- this document, it says:
 12 "Speaking directly to the
 13 issue of inducing severe mental pain" --
 14 A. Where are you?
 15 Q. Sorry about that. It's
 16 right above paragraph 6.
 17 A. I see, where you have the
 18 highlighted?
 19 Q. Yup.
 20 A. Okay.
 21 Q. So saying that any physical
 22 pressure applied to extremes can cause
 23 severe mental pain or suffering, is that
 24 an accurate statement?

1 A. I have no idea.
 2 Q. Do you have a sense of
 3 whether -- okay.
 4 What about the sentence,
 5 "The safety of any techniques lies
 6 primarily in how it is applied and
 7 monitored," would you agree with that?
 8 A. I would.
 9 Q. Would you agree that
 10 including the use of loud music, sleep
 11 deprivation, controlling darkness and
 12 light, slapping, walling or the use of
 13 stress positions taken to an extreme can
 14 have the same outcome?
 15 A. What outcome?
 16 Q. I believe the outcome is if
 17 it -- well, let me just ask you: If
 18 those techniques, including the use of
 19 loud music, sleep deprivation,
 20 controlling darkness and light, slapping,
 21 walling, or the use of stress positions
 22 are taken to an extreme, do you believe
 23 that they can cause severe mental pain or
 24 suffering?

1 A. I believe if they were taken
 2 to extreme, they could be detrimental.
 3 Q. What do you mean by
 4 detrimental?
 5 A. You don't understand
 6 detrimental?
 7 Q. I guess to me --
 8 MR. SMITH: He's allowed to
 9 ask you that question, so answer
 10 it.
 11 THE WITNESS: Oh, okay.
 12 Well, it means not good. Harmful
 13 in some way.
 14 BY MR. LAVIN:
 15 Q. Okay. All right.
 16 A. I know you know what
 17 detrimental means.
 18 Q. Do you think there is a
 19 difference between an extreme form of a
 20 technique being detrimental and an
 21 extreme form of a technique inducing
 22 severe mental pain or suffering?
 23 MR. SMITH: Objection.
 24 THE WITNESS: Yeah, I think

1 there is a difference.
 2 BY MR. LAVIN:
 3 Q. Do you think it's possible
 4 that, for example, sleep deprivation
 5 taken to the extreme could induce severe
 6 mental pain or suffering?
 7 MR. SMITH: Objection.
 8 THE WITNESS: I think that
 9 all precautions were taken in the
 10 CIA program to preclude that, but
 11 in a situation where they weren't,
 12 they could.
 13 BY MR. LAVIN:
 14 Q. Are there any differences
 15 between how these SERE pressures, as
 16 we've been talking about, were applied in
 17 the SERE schools as opposed to how they
 18 were applied in the CIA program?
 19 A. A few.
 20 Q. Which ones were those?
 21 A. As applied -- as applied
 22 they were the same as they were applied
 23 in the SMU training, but their frequency
 24 was more in the CIA program.

1 Q. Now, Dr. Mitchell has
 2 described the effect of these techniques
 3 to be related to Pavlovian classical
 4 conditioning.
 5 Do you agree that the
 6 interrogation strategy with the SERE
 7 techniques was based on the Pavlovian
 8 classical conditioning?
 9 MR. SMITH: Can you show us
 10 where you're referring to in the
 11 document?
 12 MR. LAVIN: Sure. Sure.
 13 BY MR. LAVIN:
 14 Q. So if you look at Exhibit 4
 15 from Dr. Mitchell's deposition. This
 16 is -- and it's on --
 17 MR. SMITH: Give us a second
 18 here, if you would.
 19 MR. LAVIN: Sure.
 20 MR. SMITH: Can you just
 21 identify for the record what's
 22 before the witness?
 23 MR. LAVIN: Sure. This is
 24 Exhibit 4 from Dr. Mitchell's

1 deposition, which is a manuscript
2 that's called -- is labeled
3 Interrogating the Enemy.

4 MR. SMITH: And in fairness,
5 I think it was identified by
6 Dr. Mitchell as a draft, not the
7 final manuscript.

8 MR. LAVIN: A draft. Yes.
9 And that's at pages 56 and 57 of
10 the manuscript. And I just --

11 BY MR. LAVIN:

12 Q. So anyway, there
13 Dr. Mitchell writes that he was going to
14 use a psychologically-based interrogation
15 program and it would need to be based on
16 what is called Pavlovian classical
17 conditioning. So I wanted to ask you a
18 little bit about that.

19 Did you have any
20 understanding that the interrogation of
21 Abu Zubaydah would involve Pavlovian
22 classical conditioning?

23 A. I had an understanding that
24 it would involve stimulus response.

1 Q. What does that mean?

2 A. The same thing basically. I
3 don't remember him using the term
4 "Pavlovian," but it's similar.

5 Q. What does stimulus response
6 mean?

7 A. It means you invoke a
8 certain stimulus to get a certain
9 response.

10 Q. And what did that mean in
11 the context of the Abu Zubaydah
12 interrogation?

13 A. The idea was if the
14 detainees didn't respond to social
15 influence techniques and the CIA
16 authorized the use of physical pressures,
17 that using physical pressure, which could
18 be terminated by cooperation, would
19 constitute a stimulus response.

20 Q. So the stimulus is the
21 physical pressure and the response is how
22 Abu Zubaydah would respond?

23 A. Well, the -- yeah,
24 basically.

1 Q. And what was the -- what was
2 the desired response that you were
3 looking to invoke?

4 A. You want people to talk to
5 you. If you're interrogating someone,
6 you just want them to talk at first so --
7 and then of course you want them to talk
8 about things that are useful.

9 Q. And would it be correct to
10 say that at some times the desired
11 response is fear or anxiety?

12 A. Yes.

13 Q. Were you familiar with the
14 concept of learned helplessness in 2002?

15 A. Yes, I'm familiar with it.

16 Q. Did you believe that there
17 was a role for learned helplessness in
18 interrogation?

19 A. Not scientific learned
20 helplessness where a person is rendered
21 basically incapacitated. In the CIA's
22 program, it was used exactly as described
23 in the Army Field Manual, you can induce
24 a feeling of helplessness, which is then

1 removed, so it's a temporary applied
2 state.

3 Q. And the idea is that the
4 detainee feels helpless for a time?

5 A. Can you repeat that?

6 Q. Is the idea that the
7 detainee feels helpless for some set
8 period of time?

9 A. I don't understand your
10 question.

11 Q. Sure. Let me rephrase it.

12 You say it was used exactly
13 as described in the Army Field Manual, so
14 you can induce a feeling of helplessness,
15 which is then removed, it's a temporary
16 applied state. I guess, let's just take
17 that slowly so I can understand it.

18 What do you mean by a
19 temporary applied state?

20 A. I mean, if you use a
21 physical pressure and the person you're
22 using it on wants you to stop and they
23 know you'll stop if you (sic) start
24 talking, then you have a choice, you can

1 start talking or you can get some more
2 physical pressure.
3 The pressure is designed to
4 be used in a way that it doesn't harm but
5 it makes someone uncomfortable, you know,
6 it's more irritating than painful, but
7 nonetheless, not something that you want
8 happening. So if the detainee finds
9 something to talk about, the physical
10 pressure stops and if they start to
11 obfuscate and refuse to give useful
12 information again, you can reapply the
13 pressure. Eventually, it doesn't take
14 long to learn that if you don't want that
15 to happen, you can talk or cooperate in
16 some way.
17 So the discomfort or the
18 helplessness, the applied state of
19 helplessness that you feel at the time is
20 a -- is a temporary feeling of, you know,
21 how am I going to get out of this, I
22 don't like this, I want this to stop.
23 As I said, that's the way
24 it's described and recommended for use in

1 the Army Field Manual.
2 But the scientific state of
3 learned helplessness is something that,
4 as you have already pointed out, Jim and
5 I strived hard to prevent in the SERE
6 schools. We also spent a great deal of
7 time talking to CIA officers about this
8 because it was a concept that they --
9 they used the term, but they didn't use
10 the term correctly. Many of them would
11 write cables and reports and say, We're
12 going to use learned helplessness. They
13 didn't understand the difference between
14 Seligman's classic helpless state, which
15 you don't want because then no one is
16 going to cooperate in that state, as
17 opposed to a temporary feeling of
18 helplessness.
19 So that was one of many
20 emotions or feelings that you tried to
21 manipulate in a detainee to encourage
22 them to be cooperative.
23 Q. Okay. Do you recall sort of
24 in what ways you tried to communicate to

1 the CIA that they were misusing the term
2 learned helplessness?
3 A. Yes.
4 Q. How -- how did you
5 communicate that?
6 A. If I saw it used
7 inappropriately or heard it used
8 inappropriately, I would explain the
9 difference. I -- I did that many times.
10 Q. And is there -- I think you
11 mentioned the Army Field Manual. Is that
12 sort of the origin of the way -- let
13 me -- let me rephrase that.
14 When you and Dr. Mitchell
15 used the term helplessness in a way
16 that's different, as you're saying, from
17 the learned helplessness that was used by
18 Dr. Seligman, is the document that
19 describes helplessness in the way that
20 you and Dr. Mitchell use it, is that the
21 Army Field Manual?
22 A. It's described that way in
23 the Army Field Manual.
24 Q. And are there other sort of

1 research papers or psychological manuals
2 or any other literature that you're
3 familiar with that uses learned
4 helplessness in a way that's distinct
5 from Dr. Seligman's learned helplessness?
6 A. I don't know.
7 MR. SMITH: Are you on a new
8 subject matter here? When we
9 transition, let me know. I just
10 want to take a quick break.
11 MR. LAVIN: Sure. Yeah.
12 We're -- we're almost there. Just
13 one more thing on this and then
14 we'll move.
15 MR. SMITH: Okay.
16 MR. LAVIN: If we can pull
17 Exhibit 20 from Dr. Mitchell's
18 deposition, which is tab 18.
19 BY MR. LAVIN:
20 Q. And I'm just going to ask
21 you about the very first page there, and
22 then we can take the break.
23 A. The cover page?
24 Q. I'm sorry. That's a good

1 question. No, it's the second page.
 2 A. Okay.
 3 Q. And just about that -- that
 4 big paragraph in the middle of the page.
 5 A. All right.
 6 MR. SMITH: Can we just
 7 identify Exhibit 20 for the
 8 record, please?
 9 MR. LAVIN: This is -- this
 10 is labeled as an attachment to a
 11 fax to Dan Levin at the DOJ
 12 Command Center, and the document
 13 is labeled "Background paper on
 14 CIA's combined use of
 15 interrogation techniques."
 16 BY MR. LAVIN:
 17 Q. And, Dr. Jessen, I wanted to
 18 know first whether you've ever seen this
 19 document before?
 20 A. No.
 21 Q. This document includes a
 22 sentence that says:
 23 "The goal of interrogation
 24 is to create a state of learned

1 helplessness and dependence conducive to
 2 the collection of intelligence in a
 3 predictable, reliable and sustainable
 4 manner."
 5 Would you say that's an
 6 accurate statement?
 7 A. No, I wouldn't because
 8 learned helplessness is not the only
 9 thing -- or helplessness is the not only
 10 thing you use in an interrogation. This
 11 sentence it says it is interrogation.
 12 Q. And that's because sometimes
 13 you might have other goals besides
 14 creating a state of learned helplessness
 15 and dependence?
 16 A. Yes.
 17 Q. What might those other goals
 18 be?
 19 A. You might want someone to
 20 desire some kind of creature comfort
 21 or -- as imaginative as an interrogator
 22 can be. There are different ways to
 23 approach it.
 24 The reason I'm taking issue

1 is because of the way this sentence
 2 reads. It says, "The goal of
 3 interrogation," and I don't agree with
 4 that.
 5 Q. Yeah. What kind of -- I
 6 think you just mentioned creature
 7 comforts, you know, would be a different
 8 thing that is -- let me just -- let me
 9 just make sure I understand you.
 10 Would it be correct to
 11 rewrite this sentence to say sometimes
 12 the goal of interrogation is to create a
 13 state of learned helplessness?
 14 MR. SMITH: Objection.
 15 THE WITNESS: It would be
 16 correct to say sometimes a feeling
 17 of helplessness, a temporary
 18 feeling of helplessness, is useful
 19 in an interrogation.
 20 BY MR. LAVIN:
 21 Q. And sometimes it would be
 22 useful to have a subject of interrogation
 23 desire a set of creature comforts that
 24 the interrogator could provide?

1 A. Yeah.
 2 Q. What kind of creature
 3 comforts, for example? I guess what does
 4 that term mean to you?
 5 A. Candy bar. Abu Zubaydah
 6 liked Pepsi.
 7 Q. All right.
 8 MR. LAVIN: I think
 9 unless --
 10 BY MR. LAVIN:
 11 Q. Just to -- just to sort of
 12 close this out, sometimes a feeling of
 13 helplessness, temporary feeling of
 14 helplessness is helpful in an
 15 interrogation, but could you just
 16 elaborate a little bit on how it might be
 17 helpful?
 18 A. Just in the way we've just
 19 discussed. We just went over that.
 20 Q. Assuming in the sense that a
 21 detainee might be trying to avoid that
 22 state and therefore would be incentivized
 23 to cooperate?
 24 A. Yeah.

1 asked to work with KSM.

2 These programs and acronyms
3 all came as the years rolled on.
4 They didn't even exist, to my
5 knowledge, when we were working.

6 There was an individual --
7 you better be ready to stop me if
8 I get in the wrong place here.

9 There was an individual who
10 worked for the CIA who was a prior
11 SERE instructor who was involved
12 in all of this, who put together,
13 along with an individual who is
14 identified in your documents as
15 the chief interrogator, they put
16 together a training course at one
17 time. I wasn't involved in it, I
18 didn't know anything about it
19 happening.

20 There were, as I said,
21 disparate -- I don't mean
22 panicked, I mean different efforts
23 going on that I later became aware
24 of in the agency. As stated in

1 this document, we have all these
2 people, we think they have actual
3 intelligence, what are we going to
4 do?

5 When I finally got to the
6 site where I met Gul Rahman was
7 the first time I realized that the
8 agency had other efforts where
9 there were people interrogating
10 and doing these other things. I
11 later found out there were even
12 more than that. But I didn't know
13 about them, and I didn't
14 participate in them until -- well,
15 I didn't participate in them
16 except for the one exception,
17 which I'm sure we'll talk about,
18 where Gul Rahman was.

19 Later, to put it quickly and
20 bluntly, a lot of this all fell
21 apart and there was a lot of
22 intrigue and problems, and people
23 were doing things they shouldn't
24 do, they were breaking the law and

1 stepping outside of the Department
2 of Justice guidelines, not me and
3 not Jim, but there were people
4 doing that. This eventually in
5 the SSCI all was subscribed to me
6 and Jim. But it wasn't us. But
7 there were things going on.

8 Eventually, this all fell
9 down, including the training
10 course that was eventually put
11 together because the guy that was
12 in charge of it was training
13 people to do things that weren't
14 even authorized by the Department
15 of Justice.

16 When that all went to hell
17 and they finally fired that guy
18 and the other guy was set to the
19 side, they came to Jim and I, and
20 this is, I don't know, 2005, '4, I
21 don't know when it was, and they
22 said, Will you guys put together a
23 course to train interrogators?
24 And we said, Yes. And -- and we

1 did that. But it wasn't until way
2 down the road, way after this.

3 So -- but I worked for the
4 CIA and I did, as long as it was
5 legal and authorized, anything
6 they asked me to do, and I -- I
7 don't see it unreasonable that
8 they would say, with good intent
9 initially, because this guy that
10 turned out to be -- to have done
11 things that he shouldn't have
12 done, was a trusted and well-liked
13 member and he had done great work
14 for the agency in the past. He
15 just -- he just got derailed.

16 Anyway, if he was putting
17 something together and someone who
18 knew Jim and I said, Hey, let's
19 have these guys weigh in on that,
20 put their names down, I'm sure
21 this SERE instructor that I'm
22 talking about would have done
23 that. I don't think the chief
24 interrogator would because he had

1 great enmity towards Jim and me,
2 and there were conflicts that you
3 could trace through the papers if
4 you look carefully all along the
5 line.

6 But I don't know what this
7 is. It certainly has my name on
8 it, but I don't know what it is.

9 BY MR. LAVIN:

10 Q. Sure. Thank you.

11 So would it be correct to
12 say that you first participated in one of
13 these interrogation training courses
14 after 2005?

15 A. In a CIA interrogation
16 course, yes, but I have -- I had
17 interrogation courses before that.

18 Q. Okay. But prior to 2005,
19 you weren't involved in the CIA -- prior
20 to 2005, you weren't involved in the CIA
21 interrogator training course?

22 A. I don't know if 2005 is an
23 accurate date. I do know that they asked
24 us to put together a curriculum and we

1 did it. I don't remember exactly when it
2 was, but it was after this.

3 Q. After --

4 A. But I didn't -- and because
5 this is part of the question that you
6 just asked me, Dror, at one point in
7 time, again, 15 years ago, and I'm
8 getting older, I don't remember precisely
9 when, CTC came to us and they said, Will
10 you please go and audit this course that
11 these people have put together, tell us
12 what you think. And it was in the United
13 States, and we both happened to be there,
14 and we went there, and we listened for a
15 while until they started teaching things
16 that were unauthorized, and we got on the
17 phone, and I don't think we stayed there
18 after that. But if that's what you -- I
19 mean, I was there. I wasn't
20 participating as a student, I was there.

21 Q. And when you say
22 "unauthorized," are you referring to the
23 techniques that were authorized for --
24 for use on Abu Zubaydah?

1 A. Yes. I -- I never used any
2 techniques that weren't authorized
3 initially by the Justice Department
4 initially for Abu Zubaydah, then for
5 Nashiri, then for KSM, and then for a few
6 other people. That's all I knew that was
7 authorized.

8 And so when I arrived at
9 this other location and they were doing
10 other things, it surprised me and I
11 asked, Are these authorized? The
12 response I got was, I don't think so,
13 some of them might be. So I said, You
14 can't do that, you know, they've got to
15 be authorized.

16 But I'm working for the CIA.
17 The guy that is doing these things is a
18 CIA officer under whose auspices I now am
19 because they sent me there to do a
20 specific job and he asked me to come and
21 talk to Gul Rahman. So I am walking this
22 line because I don't know what -- I don't
23 know what's going on, but I know that I'm
24 not in charge, and we'll get to that, I'm

1 sure. I asserted myself the best I could
2 and did what I could do.

3 But if I may say this to you
4 all: You -- you may have embarked upon
5 this lawsuit with the best intentions
6 possible, I don't know, but you did it
7 with a document that's so wholly flawed
8 and misinterpreted that you've shot
9 yourselves in the foot, I fear, because
10 if you even examine the SSCI document
11 meticulously, you will see what I'm
12 talking about. And you will also see how
13 they tried to aim it at Jim and my heads
14 because they thought we were demons,
15 because they thought we had done all
16 these terrible things. We didn't string
17 people up by their arms, we didn't short
18 chain them to walls until they froze to
19 death, we didn't threaten them with
20 drills and guns.

21 We did exactly -- we did due
22 diligence. We said, This is tough work,
23 and we will go and do it for our country,
24 but it has to be legal and it has to be

1 the end.
 2 A. Correct.
 3 Q. And that -- that period is
 4 all over in August 2002?
 5 A. I think so, yeah. Within --
 6 within 20 days of when we started, it was
 7 over with. I'm pretty sure I can say
 8 that.
 9 Q. And then in September and
 10 October of 2002, were you sort of
 11 continuing in that debriefing role you
 12 were describing?
 13 A. That's correct.
 14 Q. And then -- and then you
 15 were called to the site where Gul Rahman
 16 and Nashiri were?
 17 A. Nashiri wasn't there when I
 18 went there, but he did show up there.
 19 Q. I see. And you were called
 20 to that site sometime around
 21 November 2002?
 22 A. I think so.
 23 Q. And just to let you know,
 24 we're going to try to avoid using any

1 exact dates.
 2 A. Any?
 3 Q. Exact dates.
 4 A. Okay.
 5 Q. So like I won't ask --
 6 A. That's good for me because I
 7 don't remember any.
 8 Q. Oh, good. All right. Well,
 9 I'll never ask you to say, like you know,
 10 November 3rd or something.
 11 A. All right.
 12 Q. Now, we're going to talk
 13 about Gul Rahman obviously.
 14 Do you recall being
 15 interviewed after his death?
 16 A. Yes.
 17 Q. And were you truthful in
 18 your responses at that time?
 19 A. Was I?
 20 Q. Were you truthful in your
 21 responses at that time?
 22 A. Yes.
 23 Q. So I'd like to bring in a
 24 new exhibit, which is tab 23.

1 MR. LAVIN: Please mark
 2 this -- this is exhibit what?
 3 MR. SMITH: 31.
 4 MR. LAVIN: 31.
 5 (Exhibit No. 31, Memorandum,
 6 Bates US 1047 through 1053, was
 7 marked for identification.)
 8 MR. LAVIN: So for the
 9 record, the court reporter has
 10 shown Dr. Jessen Exhibit 31, which
 11 is labeled Memorandum for the
 12 record. It is US Bates 1047 to
 13 1053.
 14 BY MR. LAVIN:
 15 Q. And you can take as long as
 16 you'd like to familiarize yourself with
 17 that.
 18 A. I recognize it.
 19 Q. Okay.
 20 A. So I think we can probably
 21 proceed.
 22 Q. Okay. Great.
 23 So this is -- appears to be
 24 an account of an interview that was done

1 with you in January 2003. Do you
 2 remember being interviewed around that
 3 time?
 4 A. This is what I remember:
 5 After I left Cobalt, I went to another
 6 location to work and I couldn't get home,
 7 I didn't get home until, I don't know, it
 8 was before Christmas, but whenever it
 9 was.
 10 At that time, I went
 11 directly to the most senior person I knew
 12 in CTC and told them about what my
 13 concerns were with Cobalt and with Rahman
 14 and so forth.
 15 At that time, as I later
 16 learned, Rahman was already deceased.
 17 They didn't tell me that, but I did have
 18 the occasion to discuss with them what my
 19 concerns were.
 20 Sometime after that, I was
 21 home and I received a phone call and the
 22 person identified themselves as a CIA
 23 officer, and he said, I'd like to talk to
 24 you about Gul Rahman, and I said, Is he

1 dead? Because I had that concern. He
2 confirmed that he was.

3 This is what I don't
4 remember exactly -- I don't know if this
5 interview was on the phone or if I was at
6 Langley, but it would have been shortly
7 after the phone call if it was because I
8 was deployed again right away.

9 I didn't ever see this after
10 it was typed up. I probably would have
11 changed a few things had they allowed me
12 to see it, but this is an account of the
13 interview. I just don't know if it was
14 in person or on the phone.

15 Q. Do you -- do you recall what
16 you would have changed?

17 A. Well, I'd have to go through
18 it line-by-line, but some of the wording
19 and some of the syntax doesn't seem like
20 the way I would have said it. But you
21 know, I have no way of proving it one way
22 or another because I didn't ever see it
23 afterwards.

24 Q. I see.

1 come from. So for 12 or more hours a
2 day, the detainees were left alone with
3 these indigenous guards. I am not aware
4 of any mistreatment of the indigenous
5 guards with any other detainee except
6 Rahman, but they handled him roughly and
7 with disdain.

8 He was also in the conflict,
9 as I was told by the Chief of Base. He
10 would fight with the guards, he threw his
11 dung and urine can at the guards. The
12 guards had given him what were called
13 cold showers. There's a document we
14 have, we all have, that says I observed
15 one of these. I don't know if I did. I
16 know I was told about it. I was aware of
17 it, but I don't remember specifically
18 seeing it. I was told that it was done
19 because there was no hot water in the
20 facility or they had a pipe problem. I
21 don't know if that's accurate or not.

22 But subsequent to that, I
23 did see Gul Rahman being taken to his
24 cell. He was cold and shivering, and I

1 A. I'm not asserting that --
2 well, I don't know. I just -- I didn't
3 see it, so...

4 Q. Sure. So you know, you said
5 that you thought he might be dead when --
6 when you got that phone call about
7 Mr. Rahman?

8 A. That was the first thought
9 that came in my mind.

10 Q. And why was that?

11 A. Because of the deplorable
12 conditions he was in when I left.

13 Q. Could you -- could you
14 describe those conditions?

15 A. It was cold, he was in a
16 facility run by a CIA officer, Chief of
17 Base, but guarded by indigenous personnel
18 who were of a faction incredibly hostile
19 to his faction, and in fact, they
20 surmised that Gul Rahman had been
21 complicit in some way with the death of
22 their leader in the not too distant past.

23 There was no 24/7
24 surveillance like there was where I had

1 was concerned that he would be
2 hypothermic. And so I told the guards
3 that they had to get him blankets and
4 insulation.

5 I talked to the Chief of
6 Base and said, you know, Winter is coming
7 on and we need to get heaters here, and
8 he acknowledged that and said he had
9 already started whatever the procurement
10 process is to do that, and before I left,
11 I did see heaters in the facility.

12 But -- but they -- they did
13 other things that weren't authorized.
14 They did what they called a hard
15 takedown, which they asked me to observe
16 and I did, and they didn't do it in a
17 completely out-of-control way, but it
18 wasn't approved and it didn't seem to
19 have any usefulness that it perhaps could
20 have had if it's -- it's a technique that
21 could definitely dislocate your
22 expectations about what's going on, but
23 they returned him immediately to his cell
24 and then just left him there.

1 So if you're going to
2 dislocate someone's expectations then you
3 want to go in there with your
4 interrogation skills, social influence
5 skills, and see if you can leverage that
6 in some way. I made that suggestion to
7 the officer.

8 So that and other things
9 were going on when I got there.

10 Q. And I think -- I think you
11 described the cold shower that either you
12 saw or became aware of --

13 A. Right.

14 Q. -- through description. In
15 this interview, you described it as a
16 deprivation technique.

17 A. Uh-huh.

18 Q. Do you know what you meant
19 by that?

20 A. I do. In SERE jargon, a
21 deprivation technique is anything that
22 disrupts the steady state, as I said
23 earlier. So if I were to take away your
24 Coca-Cola and you really wanted it, it

1 the only ones that I knew of, certainly
2 the only ones I was authorized to use.
3 In fact, at that time only Dr. Mitchell
4 and myself were authorized to use those
5 things.

6 Q. And then were those
7 techniques referred to at that time, if
8 you know, as -- as enhanced interrogation
9 techniques?

10 A. I don't remember. You know,
11 those terms evolved over time. The term
12 HVD, you know, that didn't exist when we
13 started. The term MVD. The first -- I
14 think Cobalt may have been the first I
15 heard that term because there were
16 another group of people there working
17 with the Chief of Base doing
18 interrogations, doing this stuff that
19 we're talking about, and in fact, they
20 did use that term because the individual
21 they had sent me there to talk to, not
22 Gul Rahman, but another person, they --
23 when I got there, they identified him as
24 a MVD.

1 would be a deprivation. If I were to
2 take away all your clothes, that would
3 also be a deprivation. So there are
4 varying degrees.

5 But I asked the site manager
6 if -- if he had approval for that kind of
7 deprivation. I don't remember
8 specifically what he said, I'm not trying
9 to, you know, aim this at him. It's
10 self-evident what he did if you read the
11 documents.

12 But it -- but it was a
13 deprivation, not one that I would have
14 used, not one that I was sanctioned to
15 use, not one that the Department of
16 Justice, to my knowledge, had approved,
17 but it was a deprivation.

18 Q. And by this point in
19 November 2002, was there, you know, a set
20 of techniques that you understood to have
21 been approved by the Department of
22 Justice?

23 A. Well, the techniques that we
24 were given to use with Abu Zubaydah were

1 Q. So there was some -- some
2 distinction made between him as a MVD and
3 someone else as an HVD?

4 A. Eventually in the program it
5 was a very clear distinction. And I
6 don't know when that evolution
7 solidified, but eventually HVDs were only
8 the highest valued people, like KSM, and
9 Zubaydah and Nashiri and Gul Rahman,
10 and -- I'm getting old that I can't roll
11 them off my tongue quickly. But there --
12 there was a group that were so
13 designated.

14 And with the exception of
15 when I was at Cobalt for -- I was there
16 for maybe two or three weeks, I don't
17 remember, that's the only time I saw or
18 worked with any HVDs, as they came to be
19 known -- or I mean, MVDs as they came to
20 be known. But eventually those
21 distinctions were used all the time.

22 Q. And do you happen to know
23 whether, after Mr. Rahman's death and
24 after you raised the -- the concerns you

1 raised about the facility at Cobalt,
2 whether changes were made at Cobalt?
3 A. As I told you, before I left
4 Cobalt, I saw heaters. The Chief of
5 Base -- at that time I had a pretty
6 amicable relationship with him. I later
7 found out from Mr. Durham and other
8 documents that when Gul Rahman died, he
9 panicked and lied and tried to say that
10 it was my fault. So I don't have the
11 same feelings I had about him at the
12 time.

13 But at the time he seemed
14 switched on, motivated, cooperative.
15 He -- I told him that there were a
16 multitude of things about Cobalt that
17 were wrong and needed to be fixed and he
18 was very open, and in fact, asked me to
19 help him, and he and I compiled a list on
20 Lotus Notes, not in a cable. That's
21 their version of email, the CIA's version
22 of email and he was receptive to that.

23 I never saw him personally
24 abuse -- with the exception of doing the

1 techniques that weren't authorized, I
2 never saw him act in an abusive way, and
3 like I said, he seemed receptive to the
4 suggestions I had.

5 He also told me that -- and
6 this is when I -- the last document we
7 looked at that talked about all this
8 training. When I was there, he told me
9 that there were new interrogators being
10 trained. I -- you know, the first I had
11 heard of it, and I assumed that they
12 would be trained and then be required to
13 follow the same guidelines that Jim and I
14 were following, and so my comment to him
15 was, Well, I would wait until trained
16 interrogators got out here to continue
17 what you're doing.

18 This was just before I left
19 because, as you know, headquarters asked
20 me to do an assessment on Gul Rahman to
21 determine whether -- what they -- I think
22 in the cable they did use the acronym
23 EIT. I didn't see the cable, but I think
24 that's what the Chief of Base said but

1 I -- because I knew they were talking
2 about the techniques specifically used
3 where I was working, and I did that
4 assessment and I determined that, you
5 know, they wouldn't be useful on him. He
6 was incredibly strong, centered, focused,
7 an excellent resister.

8 He took the abuse from those
9 indigenous guards with a -- with an air
10 that was very surprising. You'd say, Are
11 you okay? And he'd say, I'm just fine.
12 You'd say -- I said to him, you know, Is
13 there anything I can get for you, would
14 you like food, you know, do you need
15 anything? And he said No, you know, I'm
16 just fine.

17 I'd show him his -- his own
18 driver's license with his photograph on
19 it and say, This is your picture and it
20 says your name is Gul Rahman, is that
21 your name? He said, I don't understand
22 how that -- how that happened. And he
23 would smile. He was an incredible
24 resister.

1 So using physical pressures
2 on a man like that is -- all you do is
3 either irritate them or push them further
4 away from where you want them to be, so I
5 recommended they not use them. But they
6 were convinced that he had high level
7 information.

8 There was a unit at the
9 station, which will go unnamed, that was
10 specifically tasked with identifying,
11 from all these people that were
12 transiting through this location, there
13 were a lot -- a lot of people went
14 through there, and they were tasked with
15 kind of sorting out who might be useful,
16 who might have important information and
17 who might not. And they told me that
18 they thought Gul Rahman was the top of
19 their list.

20 Now, I don't know where I'm
21 at.

22 Q. This was very helpful.
23 So I just want to make
24 sure --

1 A. I hope for me.
 2 Q. Definitely. I just want to
 3 make sure I understand sort of the way --
 4 and feel free not to answer if this
 5 trespasses into classified information.
 6 I'm just trying to understand how the
 7 recommendations you make or assessments
 8 you make find their way into cables,
 9 because --
 10 A. I can tell you that.
 11 Q. Sure. But I'll ask it in
 12 the form of a question to make it easier
 13 for you.
 14 A. I may get kicked by my
 15 attorney but --
 16 MR. SMITH: I can't kick you
 17 with my feet going this way.
 18 MR. SCHUELKE: He's probably
 19 going to kick me instead.
 20 BY MR. LAVIN:
 21 Q. Is it correct to say that
 22 the Chief of Base is the one who ends up
 23 writing the cables?
 24 A. Yes.

1 Q. And you have some kind of
 2 interaction with the Chief of Base?
 3 A. I did. I worked with him.
 4 He asked me to help him assess Gul Rahman
 5 in terms of how he could interrogate him
 6 and get this whatever the information is
 7 they thought he had.
 8 Q. So you would -- you would
 9 convey, you know, whatever information
 10 you were asked for and the Chief of Base
 11 would write it up --
 12 A. That's correct.
 13 Q. -- in these cables?
 14 All right. So I'd like to
 15 look at a couple of those cables.
 16 MR. LAVIN: The first one is
 17 at tab 24.
 18 (Exhibit No. 32, Cable, Eyes
 19 only - Noncompliance of Gul
 20 Rahman, Bates 1072 through 1074,
 21 was marked for identification.)
 22 BY MR. LAVIN:
 23 Q. So Exhibit 32 has been
 24 marked, which is United States Bates 1072

1 to 1074, which is a cable labeled Eyes
 2 only - Noncompliance of Gul Rahman.
 3 A. Okay.
 4 Q. Do you recognize this
 5 document?
 6 A. You know, I don't know if
 7 I've seen this before. If the con- --
 8 the contents seems to be, you know,
 9 familiar, but I don't -- I don't know if
 10 I've seen this particular one.
 11 Q. Do you remember advising on
 12 the creation of a cable regarding the
 13 first 48 hours of interrogation of Gul
 14 Rahman?
 15 A. No, I don't.
 16 Q. Do you remember assessing
 17 whether he had a sophisticated level of
 18 resistance training?
 19 A. Yes, I do.
 20 Q. And do you remember
 21 identifying examples of his -- or let me
 22 rephrase that.
 23 Did you notice things that
 24 suggested to you that he had a

1 sophisticated level of resistance
 2 training?
 3 A. Yes.
 4 Q. Are some of those --
 5 A. I assumed he did.
 6 Q. And were the reasons for --
 7 for your conclusion or your assumption
 8 that he had a sophisticated level of
 9 resistance training, were some of those
 10 laid out in this cable?
 11 A. Yes. These bullet points,
 12 at least several of them, seem consistent
 13 with my observation, and I could have, in
 14 fact, made those observations to the
 15 Chief of Base who then incorporated them
 16 in his cable.
 17 When I got there and he
 18 asked me to help him, I went and observed
 19 them interrogating Gul Rahman twice.
 20 Then he said, The agency wants you to
 21 make an assessment, so I did. I believe
 22 I did four sessions, each one would have
 23 been probably an hour or less.
 24 So that was the sum total of

1 time I spent with Gul Rahman, except the
2 couple of times I observed him out of the
3 interrogation room.

4 But the -- the Chief of
5 Base, to my recollection, continued to
6 question and interrogate him all the time
7 that I was there.

8 Q. And when you were pointing
9 earlier at these -- these bullet points
10 in the cable, are you -- are you
11 referring to the paragraph that --

12 A. Paragraph 4, the bullet --
13 no, paragraph 4 of the bullet point, the
14 last page of the --

15 Q. And those are the bullet
16 points labeled A through J in paragraph
17 4?

18 A. Yes. I don't know that I
19 made all those observations, but it seems
20 reasonable to me that I did some of them
21 because of the judgment that I made about
22 his resistance posture.

23 Q. And those included your
24 judgment that he was ignoring obvious

1 facts like the driver's license that
2 had --

3 A. Correct.

4 Q. -- his picture on it?

5 That he was unresponsive to
6 provocation?

7 A. I don't know if I said that
8 or not. I could have said that. I don't
9 know when this was written. As part of
10 my assessment, I used a facial slap to --
11 to determine how he would respond, as I
12 was authorized to do, and as I suspected,
13 he was impervious to it. He -- I could
14 tell that, you know, it would be futile
15 and gratuitous to do those things.

16 So that possibly could have
17 led to that bullet, but I don't know
18 because I don't remember the sequence and
19 the time.

20 Q. What about the "Claimed
21 inability to think due to conditions -
22 cold"?

23 A. Which one is that, which
24 letter?

1 Q. That's C.

2 A. "Claimed inability to think
3 due to conditions."

4 I don't know what the
5 hyphenated cold means. I didn't give him
6 cold showers, I didn't strip him naked
7 and hold him -- and hang him up in the
8 cell naked. I didn't do those things. I
9 didn't short chain him to the wall with
10 no clothes. I did only what the
11 Government had authorized me to do.

12 But it was cold there and he
13 didn't act like it was. So that's the
14 best answer I can give you, Dror.

15 Q. All right. Let's -- let's
16 move to the next one, which is,
17 "Complained about poor treatment."

18 Do you -- do you recall him
19 doing that?

20 A. Not to me, no. He was
21 always everything is fine when I talked
22 to him.

23 Q. And is that also -- you
24 don't recall him complaining about the

1 violation of his human rights?

2 A. I don't.

3 Q. Would those -- would those
4 behaviors suggest resistance training to
5 you?

6 A. They would be consistent
7 with -- with resistance training, yes.

8 Q. What about claiming
9 inability to think due to cold condition?

10 A. Definitely.

11 Q. How would you tell the
12 difference between someone who is
13 actually having trouble thinking because
14 they were cold to someone who is just
15 claiming it as a resistance technique?

16 A. That's a good question. If
17 you thought that was happening, you would
18 call in a physician or someone to examine
19 him and make sure that they weren't
20 suffering in that way.

21 Q. Do you know whether anyone
22 called in a physician for Mr. Rahman?

23 A. I know people asked for a
24 physician because I asked for them and

1 Jim asked for them multiple times. We
2 asked for an audience of the Chief of
3 Station and weren't given it. We talked
4 directly to the PA that was in charge of
5 medical care out there and told him he
6 needed to go see Gul Rahman, and he told
7 us that he doesn't work on fucking
8 terrorists. Pardon my French, but that's
9 a quote. We tried. And I continued
10 trying when I got home.

11 Q. And when you said you -- you
12 used an authorized insult slap to check
13 his response to provocation --

14 A. Yes.

15 Q. -- how did you come to know
16 that that was something that was
17 authorized for use on -- on Gul Rahman?

18 A. I'm -- I was authorized to
19 use these techniques. I was asked by the
20 CIA to assess him for their use. The
21 only reasonable way to determine that
22 would be to pick the least intrusive one,
23 see how he responded, in addition to
24 other details in terms -- in terms of

1 things that I've already told you about
2 his staunchness and resilience.

3 Q. So the way it would work was
4 you would try out the least intrusive of
5 the sort of physical authorized
6 techniques, and then you would request
7 permission if you thought -- you know,
8 let me -- let me restart that. That's
9 too complicated.

10 So the way the process would
11 work, if I'm understanding correctly, and
12 please tell me if I'm not, is that you
13 would take an assessment based on your
14 exploratory use of the least intrusive
15 technique you were authorized to use?

16 A. I don't agree with what
17 you're saying.

18 Q. I'm sure -- I'm sure I got
19 that wrong.

20 A. I was authorized to use
21 specific techniques. I was sent to
22 Cobalt for another reason, but while I
23 was there, the CIA sent a cable to the
24 Chief of Station and to the Chief of Base

1 and said, Have him tell us whether we
2 should use these techniques on him or
3 not.

4 And -- and so I interviewed
5 him, I questioned him. I used the least
6 intrusive of those techniques, I made my
7 determination and recommended they not be
8 used.

9 Q. Okay. That's -- that's a
10 much better description than the one I
11 asked about.

12 So I think -- I think we
13 also discussed you witnessed something
14 called a hard takedown?

15 A. I did.

16 Q. Can you describe what that
17 was?

18 A. You want to read it?

19 Q. Sure.

20 A. Or do you want me to
21 describe it?

22 Q. I'd prefer if you described
23 it.

24 A. Okay. It's been 15 years,

1 so...

2 Q. Would you like to look at
3 the -- the document to refresh --

4 A. No, I can describe it. The
5 Chief of Base and three or four GRS guys
6 went precipitously into Rahman's cell,
7 picked him up, hustled him outside and
8 then they hollered and yelled and threw
9 what appeared to me to be cold punches
10 occasionally at him as they ran up and
11 down the corridor in the detention
12 facility. They then returned him to his
13 cell and locked him in there.

14 Q. And you said that that was
15 sort of a waste of a technique because
16 they didn't talk to him afterwards?

17 A. What I said was, first of
18 all, it wasn't authorized. Secondly, if
19 they were authorized to do something like
20 that, which I would not choose to do, to
21 dislocate expectations, they forgot the
22 most important part, and that was to stay
23 with the individual and see if they could
24 leverage that in some way to get him to

1 talk.

2 I don't believe they did it
3 out of cruelty, I believe they were
4 ignorant to the second piece that needed
5 to be done, and I explained that to the
6 Chief of Base. I said, If you are going
7 to do this, if -- if you get this
8 authorized, this is what I recommend to
9 you. And again he was receptive to that.

10 Q. Do you recall whether during
11 the time you were spending with him --

12 A. With Gul Rahman?

13 Q. Yeah. Do you recall whether
14 he was clothed most of the time?

15 A. No, he wasn't clothed all
16 the time. I had to have him -- I asked
17 them to put clothes on him on two
18 different occasions because he was cold
19 and asked blankets to be taken to him.

20 Q. Was he mostly wearing a
21 diaper?

22 A. No, not when I saw him. He
23 had a dishdasha, which is that ubiquitous
24 one-piece long garment that you see in

1 Afghanistan -- or you see at different
2 places, wherever he was.

3 Q. His nationality is known.
4 So he was wearing this
5 garment most of the time?

6 A. Yup. When I interrogated
7 him he was, yeah.

8 Q. And do you know whether he
9 was being kept naked some of the time as
10 well?

11 A. I think he was. In fact, I
12 know he was because I saw him that way
13 and told them to get clothes on him.

14 Q. So is it that he'd be naked
15 between interrogations, but he'd be
16 garbed in this dishdasha during the
17 interrogations?

18 A. I don't know. I told you
19 the interaction I had with him. I didn't
20 see him every day. I don't know.

21 Q. There's -- there's one --
22 one thing you -- that's written down in
23 the interview summary that I wanted to
24 ask you about. Is that Exhibit 31?

1 A. The interview summary. You
2 mean when the individual interviewed me
3 about the circumstances of his death?

4 Q. That's right.

5 MR. SCHUELKE: That's 31.

6 THE WITNESS: I think I got
7 it right here.

8 BY MR. LAVIN:

9 Q. So on -- just on the bottom
10 of page 1050 and then at the top of page
11 1051, there's -- there's a paragraph that
12 I'd like to ask you about.

13 A. Okay.

14 Q. It says that you stated
15 that:

16 "If a detainee is strong and
17 resilient, you have to establish control
18 in some way or you're not going to get
19 anywhere."

20 Does that sound accurate?

21 A. That sounds like something I
22 might have said, but I never saw this
23 document after I gave the interview.

24 Q. Do you think that's an

1 accurate description of -- I guess -- let
2 me rephrase that.

3 Sitting here today, would
4 you agree that if a detainee is strong
5 and resilient, you have to establish
6 control in some way or you're not going
7 to get anywhere?

8 A. This is what I agreed to:
9 If the detainee was designated by the CIA
10 as someone that I was supposed to
11 interrogate and I had permission to use
12 the authorized Department of Justice
13 techniques on him and he was not
14 forthcoming, then I would say that's an
15 accurate statement.

16 Q. And it looks like the next
17 sentence says:

18 "If bound by the Geneva
19 Conventions, this person would not
20 break."

21 Is it your impression that
22 if you were bound by the Geneva
23 Conventions, you would not be able to
24 break a detainee?

1 Q. Was there anyone else?
 2 A. No, I don't remember anybody
 3 else.
 4 Q. So you can turn to tab 26.
 5 MR. LAVIN: Is this 33?
 6 THE WITNESS: I'll take
 7 better care of this one.
 8 (Exhibit No. 33, Cable,
 9 Subject: Eyes only - Gul Rahman
 10 admits his identity, was marked
 11 for identification.)
 12 BY MR. LAVIN:
 13 Q. It's labeled 33, which is a
 14 cable, Subject: Eyes only - Gul Rahman
 15 admits his identity.
 16 A. Okay.
 17 Q. Did you perform an
 18 assessment after Gul Rahman admitted his
 19 identity?
 20 A. An assessment?
 21 Q. An assessment of Gul
 22 Rahman's resistance posture.
 23 A. I don't know. I don't know
 24 when he admitted his identity. I've

1 never seen this cable before. I don't
 2 know.
 3 Q. Do you recall there being a
 4 time in your interrogation of Gul Rahman
 5 where he admitted his identity?
 6 A. I don't remember that. He
 7 didn't do it to me.
 8 Q. If you look at the end of
 9 the cable, under paragraph 4, there's a
 10 paragraph labeled Assessment. The last
 11 couple of sentences read:
 12 "It is difficult to know
 13 precisely how much of this behavior was
 14 feigned and how much was the result of
 15 his physical/psychological condition;
 16 however, IC," and your name has been
 17 inserted over a redaction, "IC Jessen's
 18 impression was that he continues to use
 19 health and welfare behaviors and
 20 complaints as a major part of his
 21 resistance posture."
 22 Do you have any recollection
 23 of being involved in the writing of this
 24 cable?

1 A. No.
 2 Q. Do you think it's possible
 3 that the Chief of Base wrote about this
 4 assessment without consulting you?
 5 MR. SMITH: Objection.
 6 THE WITNESS: Could have.
 7 BY MR. LAVIN:
 8 Q. Do you think that's likely?
 9 A. I don't know.
 10 Q. Do you recall ever assessing
 11 that Gul Rahman was using health and
 12 welfare behaviors as a resistance
 13 technique?
 14 A. No.
 15 Q. Does it seem possible to you
 16 that you would have made that kind of
 17 assessment?
 18 MR. SMITH: Objection.
 19 THE WITNESS: That I would
 20 have made that kind of assessment?
 21 I have no idea. I don't -- I
 22 mean, I don't know what you're
 23 asking.
 24 BY MR. LAVIN:

1 Q. What I'm asking is, we have
 2 here a cable that has your name on it.
 3 A. Yeah.
 4 Q. And says that you --
 5 A. It wasn't written me by.
 6 Q. I understand that. But I
 7 understand that your role was to convey
 8 your impressions to the Chief of Base.
 9 A. It was.
 10 Q. And the Chief of Base would
 11 then write them up in cables.
 12 A. That's correct.
 13 Q. And generally, was it your
 14 impression that the Chief of Base would
 15 write accurately the information that you
 16 conveyed to him?
 17 MR. SMITH: Objection.
 18 THE WITNESS: I didn't -- I
 19 didn't see the cables. I don't
 20 know.
 21 BY MR. LAVIN:
 22 Q. Did you have a reason to
 23 suspect that the Chief of Base would
 24 misrepresent what you conveyed?

1 MR. SMITH: Objection.
 2 THE WITNESS: Yeah. He
 3 misrepresented several things at
 4 the end.
 5 BY MR. LAVIN:
 6 Q. Did you have a sense that
 7 that was happening prior to Mr. Rahman's
 8 death?
 9 A. No.
 10 Q. Do you know if you've ever
 11 assessed a detainee to be using health
 12 and welfare behaviors?
 13 A. Any detainee?
 14 Q. Any detainee to be using
 15 health and welfare behaviors.
 16 A. I'm sure during the time
 17 that I was working on the people I worked
 18 on, at least one of them used some form
 19 of health and welfare, but I don't know
 20 who or when. But I'm pretty confident
 21 that happened.
 22 Q. And what is health and
 23 welfare behavior?
 24 A. Any complaint dealing with

1 health and welfare.
 2 Q. Could you give me just a
 3 couple examples?
 4 A. I'm cold.
 5 Q. And -- and how would you
 6 assess whether that complaint was a
 7 resistance technique?
 8 A. If it wasn't cold, I would
 9 assume it was a resistance technique.
 10 Q. And if it was -- if it was
 11 cold, could it be a resistance technique?
 12 A. If it was cold, I would go
 13 get the doctor and everybody else and
 14 say, Is it too cold?
 15 Q. Do you think it's possible
 16 that at the time that you interrogated
 17 Mr. Rahman, you found it difficult to
 18 know precisely how much of his behavior
 19 was feigned and how much was the result
 20 of his physical/psychological condition?
 21 MR. SMITH: Objection.
 22 THE WITNESS: Can I answer?
 23 MR. SMITH: You can answer.
 24 Yeah.

1 THE WITNESS: Not in the --
 2 not in the time that I spent with
 3 him. No.
 4 BY MR. LAVIN:
 5 Q. So at the time you spent
 6 with him, it was never difficult for you
 7 to tell whether his behavior was feigned
 8 or whether it was a result of his
 9 physical/psychological condition?
 10 A. No.
 11 Q. And how could you tell that?
 12 A. It's a judgment call that
 13 you make as an interrogator. If you have
 14 any doubt, you go and get the experts, or
 15 you check the temperature or you -- you
 16 know, you do everything to make sure that
 17 they're safe and sound and you haven't
 18 broken some kind of protocol. So if --
 19 if you think there's something wrong, you
 20 follow through and you correct it; if
 21 not, then you proceed.
 22 Q. And with Mr. Rahman, did
 23 there come a time when you did ask for
 24 some kind of medical assessment?

1 A. Multiple times.
 2 Q. And did that assessment take
 3 place?
 4 A. Not to my knowledge.
 5 Q. Okay. Do you recall
 6 recommending an interrogation plan for
 7 Mr. Rahman before you left Cobalt?
 8 A. I recall working with Chief
 9 of Base on an interrogation plan.
 10 MR. LAVIN: If we could have
 11 tab 27. 34.
 12 (Exhibit No. 34, Cable
 13 marked Eyes Only - For CTC/UBL -
 14 Mental Status Examination and
 15 Recommended Interrogation Plan For
 16 Gul Rahman, Bates US 1056 through
 17 1058, was marked for
 18 identification.)
 19 BY MR. LAVIN:
 20 Q. So the reporter has marked
 21 Exhibit No. 34, which is US Bates 1056 to
 22 1058, and it's a cable marked Eyes Only -
 23 For CTC/UBL - Mental Status Examination
 24 and Recommended Interrogation Plan For

1 Gul Rahman.

2 A. Okay.

3 Q. Do you recall performing a
4 psychological assessment of Gul Rahman?

5 A. No.

6 Q. Do you know if you did do
7 such an assessment?

8 A. I didn't do a psychological
9 assessment, I did an interrogation
10 assessment.

11 Q. Could you explain the
12 difference between those?

13 A. Yeah. I looked at him to
14 give the Chief of Base recommendations on
15 how they should continue interrogating
16 him, trying to get information.

17 Psychological evaluation
18 would be to determine if he had any
19 psychological problems or was he in
20 distress in some way psychologically.
21 They're different things.

22 Q. And the last sentence here,
23 it says that:

24 "There's no indication he

1 HVT-enhanced measures?

2 A. I did as an interrogator.

3 Q. And your assessment was that
4 he would not be profoundly or permanently
5 affected?

6 A. I didn't think so.

7 Q. Had you ever been trained as
8 an interrogator in making that type of
9 assessment?

10 A. What type of assessment?

11 Q. An assessment that an
12 individual would be profoundly or
13 permanently affected by continuing
14 interrogations, to include HVT-enhanced
15 measures?

16 A. Gul Rahman was at Cobalt.
17 Cobalt was chaotic and lacked much of the
18 infrastructure that it would have -- that
19 would eventually exist there, I believe,
20 although I never was back there, and at
21 other locations.

22 I was working for the CIA.
23 The CIA said, Go and assess this guy,
24 tell us if you should use EITs, I did

1 suffers from any psychopathology, nor
2 that he would be profoundly or
3 permanently affected by continuing
4 interrogations, to include HVT-enhanced
5 measures."

6 Could you explain that
7 sentence?

8 A. I was an interrogator who
9 happened to be a psychologist, so that's
10 what I wrote.

11 Q. And did you make an
12 assessment as to whether Gul Rahman had
13 some kind of psychopathology that he
14 would -- that he could be suffering from?

15 A. No, I didn't think he did.

16 Q. So you assessed him and you
17 found that he did not have such a
18 psychopathology?

19 A. I didn't see any as an
20 interrogator.

21 Q. And did you also make an
22 assessment as to whether he would be
23 profoundly or permanently affected by
24 continuing interrogations, to include

1 that. They said, Go and look at him and
2 make your recommendations about an
3 interrogation plan, and tell us if you
4 think he's okay to do that. So I did
5 that.

6 I did that as an
7 interrogator, but I certainly used skills
8 as a -- that I possessed as a
9 psychologist, I did what I was ordered to
10 do, sent the report.

11 Q. And when you say assessed
12 for EITs, you mean again the list that
13 you and Dr. Mitchell proposed for use on
14 Abu Zubaydah?

15 A. Yes.

16 Q. And your recommendation
17 ultimately here is that -- sorry, let me
18 rephrase that.

19 Does paragraph 4 here
20 represent the interrogation plan
21 recommendation that you gave to the Chief
22 of Base?

23 A. I didn't write paragraph 4.
24 I'm sure I had input into it, but I

1 didn't write it.

2 Q. Do you recall whether you
3 conveyed to the Chief of Base that the
4 most effective interrogation plan for Gul
5 Rahman would be to continue the
6 environmental deprivations he's
7 experiencing and institute a concentrated
8 interrogation exposure regimen?

9 A. This is what I recall: I
10 told him to not use unauthorized
11 techniques or he's going to get in
12 trouble, but I had no power to make him
13 do that. He wasn't argumentative with
14 me, he didn't even say yes or no, but he
15 was already doing things that in the
16 effort I was involved in were not
17 allowed.

18 I told him that using EITs,
19 physical pressures, would alienate Rahman
20 even further from him and it would be
21 gratuitous pressure and I didn't
22 recommend it.

23 I told him that he should
24 continue to interrogate Rahman very

1 frequently to keep him off balance, and
2 that he should continue what he was doing
3 in terms of those things that were
4 authorized that I knew of. He was using
5 sleep deprivation and frequent
6 interrogation. Those are deprivations.

7 But everything else he
8 did -- I'm not aware of everything else
9 he did other than what I've seen in these
10 documents subsequently. I knew that he
11 had used cold showers; I told him he
12 shouldn't do that. I knew that he had
13 done a rough takedown; I said, You
14 shouldn't do that.

15 The Bureau of Prisons had
16 been there, according to him, and taught
17 he and his indigenous hostile guards
18 handling procedures. I don't know if
19 they're the ones that taught him about
20 short chaining. I had never heard of it
21 before nor have I heard of it since. But
22 all those other things that he did, I did
23 not recommend, and most of them I
24 recommended against.

1 So when he wrote this up, he
2 had input for me, but that's the input I
3 have.

4 Q. And bearing in mind that you
5 didn't make any recommendation for short
6 chaining or cold showers or anything like
7 that, would you consider nudity an
8 environmental deprivation?

9 A. You know, there are lists
10 that these guys have that spell
11 everything out and say what is what. I
12 don't remember where those things were.
13 Nudity was certainly used, like diapers
14 and other things. But I don't know -- I
15 don't know the answer to your question.

16 Q. Okay. Do you think that any
17 of the men who went through the EIT
18 program and had EITs applied to them, do
19 you think any of them experienced
20 long-term effects as a result of those
21 EITs?

22 MR. SMITH: Objection.

23 THE WITNESS: I think none
24 of the men that I was involved

1 in -- with, while I was involved
2 with them, experienced anything
3 that would have led to that. I'm
4 very convinced of that. I was not
5 the only one who spent time with
6 all these people, even those that
7 I had seen originally.

8 These -- these efforts that
9 were going on that I keep
10 referring to, people that worked
11 in those efforts would come in, I
12 wasn't there, I don't know what
13 they did. I don't know how long
14 they did it.

15 As I said before, without
16 trying to overstate it, there were
17 things done that should not have
18 been done. I did not do them.
19 And what I did, I did absolutely
20 in accordance with the Department
21 of Justice and with the
22 instructions that I had from the
23 CIA, which were duly considered
24 before I ever left, and it was

1 Do you remember this
2 project?
3 A. I can't talk to you about
4 it.
5 Q. Okay.
6 A. Classified.
7 Q. I'm not -- I'm not going to
8 ask for -- for any details, and you
9 should definitely not answer what you
10 can't answer. But did you, in fact,
11 write a proposal for a study of less
12 intrusive techniques?
13 A. No, I did not write a
14 proposal.
15 Q. Did you ever research less
16 intrusive techniques?
17 A. What do you mean by
18 research?
19 Q. Well, did you -- did you
20 ever conduct any study of whether
21 interrogation could be accomplished with
22 no loss of psychological impact, but with
23 techniques that were less physically
24 coercive than EITs?

1 A. I think I understand. Most
2 of the research that a clinical
3 psychologist does, unless he's assigned
4 to a research hospital or a university,
5 is not technically research, it's review
6 of literature. Jim and I didn't want to
7 continue doing what we were doing. We
8 tried to get out several times and they
9 needed us and we -- we kept going.
10 We also didn't want to use
11 waterboarding. We even talked to
12 Zubaydah about if he had any ideas what
13 we could do besides that. And as you
14 probably know, he cautioned us not to
15 stop using it because of various reasons
16 that I don't need to state now.
17 Nonetheless, Jim and I,
18 through our experience, through no
19 scientific studies or -- I know you're
20 trying -- or I know you would like to
21 know if we did scientific research on
22 learned helplessness. We didn't. I
23 didn't. And this isn't related to that.
24 But what we did do is puzzle

1 and deliberate damn near every day how we
2 could help our government and not do the
3 things we were doing. They're hard to
4 do. They were approved, they were legal,
5 but we thought maybe there's a better
6 way.
7 Jim is a scary smart guy and
8 I'm reasonably intelligent and we knew a
9 fair amount about social influence, and
10 so over time we did, in our own minds,
11 have an idea that there may be an
12 approach that could be effective, but it
13 never came to fruition because the Obama
14 administration threw us under the bus
15 before we ever had a chance to see if it
16 could work.
17 That's all I can really tell
18 you about it. It's proprietary to the
19 CIA and it's classified. I can't go
20 there.
21 Q. I understood.
22 THE VIDEOGRAPHER: Excuse
23 me, Counsel, we have less than a
24 minute.

1 MR. LAVIN: Let's stop here.
2 THE VIDEOGRAPHER: The time
3 is 4:55 PM. We are now off the
4 video record.
5 This ends Disk No. 3.
6 (Recess.)
7 THE VIDEOGRAPHER: We are
8 now back on the record.
9 This begins DVD No. 4. The
10 time is 4:58 PM.
11 BY MR. LAVIN:
12 Q. So to return to Exhibit 4,
13 which is a draft manuscript authored by
14 Dr. Mitchell. If I could just direct
15 your attention to page 286.
16 A. 286?
17 Q. Yup.
18 A. Whereabouts?
19 Q. Well, what I wanted to ask
20 you about was, Dr. Mitchell writes that:
21 "Almost unanimously we all
22 agreed that only two EITs were required
23 for the conditioning process: Walling
24 and sleep deprivation. The others, while

1 someone else in the CIA made altercations
2 to the EITs?

3 A. Yes.

4 Q. And how did you become aware
5 of that?

6 A. Okay. If I can get through
7 this accurately. It's confusing because
8 I was -- I was working -- I was sent out
9 to do this guy, then do this guy, and
10 then do this guy, with this specific
11 roadmap with these specific rules, they
12 never changed.

13 But as that transpired, I
14 find out -- I found out contemporaneously
15 back then, years ago, and then found out
16 even more going through these documents
17 that you have, there were people over
18 here working for the CIA, interrogating
19 people, that came up with their own rules
20 of the road. I don't know how they did
21 it, I don't know who approved them. Some
22 of them I heard about; some of them I
23 discounted because I thought, Geez, you
24 know, that may not be true, I don't know.

1 MVD people. I didn't know anything about
2 their program, what the rules were. I
3 didn't help them develop it, I didn't
4 give them suggestions, but I did
5 eventually find out who it was, and so it
6 was very confusing.

7 But to try and synthesize it
8 down to what I know, because what I know
9 is what I was authorized to do and the
10 people that I saw. Nothing changed in
11 the program I was in substantively.
12 There may have been something that the
13 physicians wanted to tweak or something
14 like that that I don't know about. So
15 I'm doing CYA due diligence. There may
16 have been little things. But in terms of
17 what we were told to do and authorized to
18 do, that didn't change.

19 I only know specifically of
20 one technique that was authorized. Not
21 authorized for me to use where I was at,
22 but somewhere else for someone else, and
23 that was called water dousing, and that
24 had gone through the channels and had

1 Another group over here, I
2 go to Cobalt, I find out there's a whole
3 operation going on here, they've got 30,
4 40 people. Later I find out they're --
5 they've run a training program and
6 they're sending interrogators out to do
7 thing. I know nothing about it. I mean,
8 this line and -- it's understandable, I
9 guess, because they're all -- they're all
10 compartments, although I think they were
11 all under CTC. But they're compartments
12 so I don't know what they're doing; I
13 don't know who they're doing it to.

14 I did find out later that
15 some of those people came into the
16 facilities where I had worked and
17 interacted with people that I worked
18 with, not when I was there. I don't know
19 what they did to them, I don't know how
20 long they did it.

21 I found out subsequently
22 that there was a whole other facility
23 somewhere that were processing a whole
24 bunch of what they at that time called

1 receiving -- had received approved to be
2 used. I didn't use it, I never saw it
3 used, but I did know -- I don't know when
4 for sure I heard that. But I'm -- but
5 I'm confident that I saw -- either was
6 told or saw in a document somewhere that
7 that was an authorized technique to use
8 on these MVDs. Which group of MVDs,
9 which effort, I don't know.

10 I know it might be tedious
11 for you, but what I'm trying to
12 communicate to you is there were all
13 kinds of efforts going on. We were at
14 war, we were in a running gun battle with
15 these people, and everybody was trying to
16 do something. I don't know if it was
17 good or bad. I know some of it wasn't
18 good, and I've told you about that, and
19 the CIA had been really upfront and
20 acknowledged all that and they took the
21 appropriate actions and sanctioned the
22 people who engaged in those behaviors.
23 Although if you read the SSCI report, you
24 would think that was me and Jim, which it

1 wasn't.

2 So that one -- that one I do
3 feel confident about, but Lord knows what
4 else was going on. There was a lot.

5 Q. And did you ever have to
6 sign some documents acknowledging, you
7 know, the scope of what was or was not
8 permitted within the program?

9 A. Eventually, and I don't know
10 when this happened either, when you would
11 go to a location to work, there would --
12 there was a protocol. It had all the
13 approvals, it had all of the
14 authorizations, it had a current plan for
15 whomever it was you were going to work
16 on, if one had been written; if not, you
17 had to write one. So I did see those
18 things. That wasn't standard to start
19 with because people were just grabbing
20 their kit and running. But it did become
21 a protocol. I don't know if that's what
22 you're talking about, but I did see
23 those.

24 Q. Just to -- just to turn for

1 a moment to that time where it seemed
2 like at least some of the EITs were going
3 to be phased out --

4 A. Yes.

5 Q. -- and you and Dr. Mitchell
6 did not make the decision as to which
7 EITs would or would not continue.

8 A. No.

9 Q. You said that both -- you
10 said that you certainly found walling
11 useful.

12 A. Yes.

13 Q. And I believe you said
14 that's because it dislocates
15 expectations?

16 A. I used walling for, I don't
17 know, 17 or 18 years in training. I knew
18 how -- it's discomboburating (sic).
19 It -- it doesn't hurt you, but it -- it
20 jostles the inner ear, it makes a really
21 loud noise. It's safe because of the
22 wall that you construct to do it on, and
23 yet it sounds like -- it sounds pretty
24 tremendous. And if someone is going to

1 be dislocated in the terms that we've
2 been talking about, that usually does it.

3 So I did think it was
4 effective. One of the most effective --
5 we didn't have a rating scale, but yes, I
6 felt walling was effective.

7 Q. What about --

8 A. It was effective on me. I
9 went through several schools with our
10 allies, some schools where they could
11 do -- use physical pressures, some
12 schools where -- for example, in the UK
13 at that time, they couldn't use any
14 physical pressures, but they would stand
15 you in a tunnel on one of the moors with
16 the rain coming through until you thought
17 you were going to freeze to death, and
18 you know.

19 So I'm not new to this, and
20 I know what's safe and I know what works,
21 and walling is safe and it works.

22 Q. And does cramped confinement
23 work?

24 A. They still use it, and I

1 think it is useful, yes.

2 Q. What about dietary
3 manipulation?

4 A. I'm not sure what you mean
5 by that. That had different meanings in
6 time.

7 Q. Did you have a sense of what
8 it meant in the CIA EIT context?

9 A. I can tell you this: When
10 Abu Zubaydah was waterboarded, the
11 physicians had determined that he had had
12 enough time since he had his rice and
13 beans that he wouldn't throw up, but he
14 still had some food in his stomach, and
15 although the physicians told us he wasn't
16 in any danger, it was disturbing to see
17 him throw up. And they didn't want that
18 to happen anymore. So they said, Let's
19 use Ensure. And that, I believe, came to
20 be identified as dietary manipulation.
21 That's my understanding.

22 Q. So your --

23 A. I don't know of other
24 dietary manipulation. We fed these --

1 once they got out of the hard times,
 2 which was usually a week or two, they
 3 were fed Halal meals and fed, to the
 4 extent possible, anything that they
 5 wanted to eat. So I don't know what
 6 other meaning.
 7 But as I said to you, there
 8 were many other efforts and they may have
 9 come up with that term and used it in a
 10 way that I don't know about.
 11 Q. And when you say "once they
 12 got out of the hard times," you mean the
 13 period where the EITs were applied?
 14 A. The physical pressures.
 15 Q. Okay. Let's turn to
 16 Exhibit 21, which I think we've discussed
 17 a little bit, which is the CIA's response
 18 to the Senate report.
 19 A. I'm not going to read this
 20 whole thing right now, and I haven't read
 21 the whole thing before now, so you should
 22 direct me to where you --
 23 Q. So I'm going to ask you a
 24 question about page 25. So it says

1 there:
 2 "We agree that the CIA
 3 should have done more from the beginning
 4 of the program to ensure that there was
 5 no conflict of interest" --
 6 A. Where are you at?
 7 Q. I'm sorry. I'm at the
 8 second paragraph on page 25.
 9 MR. SCHUELKE: Second
 10 bullet?
 11 MR. LAVIN: Second bullet on
 12 page 25.
 13 THE WITNESS: You are? On
 14 page 25.
 15 MR. SMITH: The bullet right
 16 there.
 17 THE WITNESS: Where is "we
 18 agreed"?
 19 MR. SMITH: Well, he's --
 20 BY MR. LAVIN:
 21 Q. I'm sorry, I started in the
 22 middle of the sentence.
 23 A. Okay. I'm with you now.
 24 Q. Just take -- take a look at

1 that sentence.
 2 A. Okay.
 3 Q. Do you agree that you and
 4 Dr. Mitchell designed and executed the
 5 techniques?
 6 A. No.
 7 Q. What's your -- what's your
 8 disagreement with that?
 9 A. I didn't design anything.
 10 Q. Did you and Dr. Mitchell
 11 propose the set of techniques to the CIA
 12 that was used in the EIT program?
 13 A. I didn't propose them to the
 14 CIA. When I got to the CIA on that day
 15 in, was it June or July? In June, the
 16 show was already running, and I helped
 17 compile the list of things we had done
 18 for years and years and years, and it was
 19 a transfer of techniques and knowledge
 20 from one place to another place. Nothing
 21 was created.
 22 Q. And do you agree that you
 23 played a role in evaluating the
 24 effectiveness of the techniques?

1 A. No.
 2 Q. So the CIA was incorrect --
 3 A. I have no idea what they
 4 meant with what they said right there. I
 5 never wrote anything, I never made a -- a
 6 verbal presentation to anyone. I may
 7 have said they're talking, and when
 8 you're an interrogator what you want
 9 people to do is talk.
 10 But if you will look -- this
 11 is not an indictment of you, but if
 12 people will look what the CIA said about
 13 the information they got or what the
 14 option rebuttal said, or what the
 15 analysts on the ground said, it's a very
 16 different opinion than the opinion that's
 17 rendered in the SSCI. Nonetheless, I had
 18 nothing to do with any of those opinions.
 19 Q. Did you ever assess the
 20 interrogation records of people you did
 21 not personally interrogate? So what I'm
 22 asking about is: You interrogated a
 23 number of detainees?
 24 A. Yes.

1 Q. There were a whole -- much
2 larger number of people that the CIA
3 detained and interrogated --
4 A. Yes.
5 Q. -- that you did not
6 personally interrogate?
7 A. Correct.
8 Q. Did you ever review any
9 records of those interrogations that you
10 did not personally participate in?
11 A. I have no recollection of
12 doing that. I -- well, no, I
13 interrogated Gul Rahman, so I looked at
14 what they said about him, but no one
15 else.
16 Q. So the CIA never asked you
17 to try to make some kind of analysis of
18 the interrogations that had been done by
19 people besides yourself and Dr. Mitchell?
20 A. No, we didn't do anything
21 like that.
22 Q. So just staying on this
23 exhibit. If you look at 49.
24 A. Page 49?

1 Q. Page 49, just at the -- at
2 the bullet at the very top.
3 A. Where are you on page 49?
4 Q. That very top bullet.
5 A. Top bullet. Okay.
6 Q. So would you again disagree
7 that the agency permitted the contractors
8 to assess the effectiveness of enhanced
9 techniques?
10 A. Absolutely. I never did
11 that. You can search 'til cows go home
12 and you're never going to find anything
13 like that. We didn't do it.
14 Q. And so, to the best of your
15 knowledge, Dr. Mitchell was never
16 involved with assessing the techniques?
17 A. To the best of my knowledge,
18 no.
19 Q. And did Mitchell Jessen and
20 Associates have any kind of contract to
21 assess the effectiveness of enhanced
22 techniques?
23 A. Not in the context that
24 you're talking about here, no.

1 Q. What -- what other context?
2 A. I don't know. I just -- I'm
3 just trying to be exclusive.
4 Q. Are you aware of any context
5 in which Mitchell Jessen and Associates
6 was contracted to assess the
7 effectiveness of enhanced techniques?
8 A. No. I'm convinced there was
9 none.
10 Q. Okay. Do you know whether
11 Dr. Mitchell ever had a goal of finding
12 and paying an independent researcher not
13 involved in the program to assess whether
14 it was effective?
15 A. No, I don't know anything
16 about that.
17 Q. Do you -- prior to this
18 lawsuit being filed, did you communicate
19 fairly closely with Dr. Mitchell?
20 A. We've been friends for a
21 long, long time, so I'm sure I
22 communicate with him often. But when we
23 were treated the way we were and lost our
24 jobs, our livelihood and our reputations,

1 we didn't spend our time sitting around
2 talking about this damn program, I'll
3 tell you that.
4 Q. And that's -- you're talking
5 about after 2007 when it was --
6 A. 2009.
7 Q. 2009?
8 A. Yup. How would you like to
9 be sitting in -- I'm not going to say
10 that. You're a good guy and you don't
11 deserve the abuse. Never mind. Sorry.
12 Q. No. And thanks for -- for
13 sitting here and answering my questions.
14 A. Well, I don't know that you
15 are, but you seem to be.
16 MR. SCHUELKE: You better
17 move on.
18 MR. LAVIN: Yeah.
19 BY MR. LAVIN:
20 Q. Have you -- have you read
21 Dr. Mitchell's book?
22 A. Yes.
23 Q. Would you say it's generally
24 accurate?

CERTIFICATE

I HEREBY CERTIFY that the witness was duly sworn by me and that the deposition is a true record of the testimony given by the witness.

It was requested before completion of the deposition that the witness, JOHN BRUCE JESSEN, have the opportunity to read and sign the deposition transcript.

Constance S. Kent



Constance S. Kent, CCR, RPR, CLR
Certified Court Reporter
Registered Professional Reporter
Certified LiveNote Reporter
and Notary Public in and for the
Commonwealth of Pennsylvania
Dated: January 23, 2017

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Please read your deposition over carefully and make any necessary corrections. You should state the reason in the appropriate space on the errata sheet for any corrections that are made.

After doing so, please sign the errata sheet and date it.

You are signing same subject to the changes you have noted on the errata sheet, which will be attached to your deposition.

It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be accurate and may be used in court.

ERRATA

PAGE LINE CHANGE

Table with 3 columns: Page, Line, Change. Rows 1-24 are blank.

ACKNOWLEDGMENT OF DEPONENT

I, _____, do hereby certify that I have read the foregoing pages, 1 - 294, and that the same is a correct transcription of the answers given by me to the questions therein propounded, except for the corrections or changes in form or substance, if any, noted in the attached Errata Sheet.

JOHN BRUCE JESSEN DATE

Subscribed and sworn to before me this ____ day of _____, 20____. My commission expires: _____

Notary Public