

## Faridi Declaration Ex. 5

1 UNITED STATES DISTRICT COURT  
2 FOR THE EASTERN DISTRICT OF VIRGINIA  
3 Alexandria Division

4 SUHAIL NAJIM ABDULLAH : Civil Case  
5 AL SHIMARI, et al., : No. 1:08-CV-827  
6 :  
7 Plaintiffs :  
8 :  
9 v. :  
10 :  
11 CACI PREMIER TECHNOLOGY, :  
12 INC., : April 15, 2024  
13 : P.M. SESSION  
14 Defendant : 1:45 p.m..  
15 ..... : .....

16 TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
17 DAY 1 - P.M. SESSION  
18 BEFORE THE HONORABLE LEONIE M. BRINKEMA  
19 UNITED STATES DISTRICT JUDGE

20 APPEARANCES:

21 FOR THE PLAINTIFFS: MUHAMMAD USMAN FARIDI  
22 ALEXANDRA MAHLER-HAUG  
23 ANDREW HADDAD  
24 BONITA ROBINSON  
25 MICHAEL BUCHANAN  
MICHAEL FISHER  
THOMAS KICAK  
W. SCOTT KIM  
PATTERSON BELKNAP WEBB & TYLER, LLP  
1133 Avenue of the Americas  
New York, New York 10036  
212-336-2000  
  
BAHER AZMY  
THE CENTER FOR CONSTITUTIONAL RIGHTS  
666 Broadway  
7th Floor  
New York, New York 10012  
212-614-6464

(APPEARANCES CONTINUED ON FOLLOWING PAGE:)

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**FOR THE DEFENDANT:**

**JOHN O'CONNOR, JR.  
LINDA BAILEY  
JOSEPH McCLURE  
STEPTOE & JOHNSON LLP  
1330 Connecticut Avenue, NW  
7th Floor  
Washington, D.C. 20036  
202-429-3000**

**NINA GINSBERG  
DIMUROGINSBERG PC  
1101 King Street  
Suite 610  
Alexandria, Virginia 22314  
703-684-4333**

**STEPHEN ELLIOTT  
JASON LYNCH  
UNITED STATES DEPARTMENT OF JUSTICE  
CIVIL DIVISION  
FEDERAL PROGRAMS BRANCH  
1100 L Street, NW  
Washington, D.C. 20044  
202-598-0905**

**REBECCA LEVENSON  
OFFICE OF THE UNITED STATES ATTORNEY  
2100 Jamieson Avenue  
Alexandria, Virginia 22314  
703-299-3700**

**OFFICIAL COURT REPORTER: REBECCA STONESTREET, RPR, CRR  
U.S. District Court, 9th Floor  
401 Courthouse Square  
Alexandria, Virginia 22314  
(240) 426-7767**

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**COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES**

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C O N T E N T S

<u>WITNESS:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
<b>SALAH HASAN NUSAIF JASIM AL-EJAILI</b>				
By Mr. Faridi	31	--	71	--
By Mr. O'Connor	--	54	--	73
<b>TORIN NELSON</b>				
By Mr. Faridi	77	--	117	--
By Mr. O'Connor	--	105	--	--
<b>(DESIGNATIONS PRESENTED BY VIDEOTAPED DEPOSITION:)</b>				
<b>CHARLES GRANER</b>	<b>122</b>			

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**P R O C E E D I N G S**

THE COURT: We're waiting on one juror, but I thought I would just give you the Taguba cross-designations. I've taken a look at the papers again.

The first one that's at issue, which is 72:65 at Paragraph 28, discussing the work ethic and potential danger of Iraqi guards is irrelevant, so that cross-designation will be stricken.

The next one, which is 72:67-68, Paragraphs H and I of Paragraph 34, they concern riots and shootings at Abu Ghraib. Again, I'm finding that that's an improper designation. Again, we've talked about this issue before. It doesn't make any difference what was going on at Abu Ghraib. It would not justify the kind of conduct at issue in the case.

MR. O'CONNOR: We weren't using it for that purpose, Your Honor. It's to explain things happened because of that, the IP roundup, people were questioned because a guy got shot.

THE COURT: Well, I don't think that's appropriate. All right? So that's out.

Paragraph 18 of 7280, including Subparagraph A, that's a designation concerning unenforced uniform standards for military police. Now, that is relevant, because one of the arguments CACI has been making is it's not the only -- its personnel were not the only ones in civilian clothing at the site. So I'm permitting that to go in.

1           The last two have to do with recommendations in the  
2 Taguba report, recommendations and conclusions in the Taguba  
3 report. So we're looking at page 7283-87, Paragraphs 1 through  
4 10, 12 and 13. Those pages recite General Taguba's  
5 recommendations for discipline of other non-CACI personnel and  
6 the findings supporting those recommendations. I think that is  
7 proper to avoid the jury having the false impression that only  
8 the abuse alleged as to Mr. Stefanowicz is the only one to which  
9 for which there were findings. So I'm going to permit that in.

10           And the last one, which is 7289, the conclusion  
11 Paragraph 1, which was the report's conclusion in which  
12 General Taguba found that several soldiers engaged in misconduct  
13 at Abu Ghraib and Camp Bucca. Camp Bucca is not an issue in  
14 this case.

15           MR. O'CONNOR: Agreed, Your Honor.

16           THE COURT: So that needs to stay out. And also, I  
17 think the problems at Abu Ghraib -- again, I've said this  
18 before. We're not going to have a ton of cumulative evidence.  
19 And I think the overall problems have been adequately raised in  
20 other portions of the report, so I don't think the rest of that  
21 is appropriate.

22           So hopefully you can do the edits. Is the jury all  
23 here now?

24           COURT SECURITY OFFICER: Yes, Judge.

25           THE COURT: Okay. Bring them in.

1 (Jury in at 12:55 p.m.)

2 THE COURT: Folks, thanks for being here on time.  
3 You're not frozen to those particular seats now that we've  
4 chosen you all. So you can sit anywhere in the box where you're  
5 comfortable. I like to be able to see jurors' faces, so I do  
6 sort of request that you not sit any closer to this corner. But  
7 if you want to sit further down, you can. You can switch from  
8 first row to second row. There's a TV screen here, and there  
9 are screens in front of the jurors as well for looking at  
10 evidence.

11 All right. We're going to now begin with the opening  
12 statements of counsel. As I indicated, plaintiffs' counsel will  
13 go first. And since there are so many lawyers in this case,  
14 counsel, just reintroduce yourselves to the jury, please.

15 MR. AZMY: Your Honor, Baher Azmy, the Center For  
16 Constitutional Rights, on behalf of the plaintiffs.

17 Your Honor, may it please the Court, ladies and  
18 gentlemen of the jury, this case is about one of the most  
19 disturbing and shameful episodes in recent American history.  
20 20 years ago almost to the day, the world learned of shocking,  
21 brutal, and unlawful abuses inflicted upon Iraqi citizens  
22 detained by the U.S. military at a prison called Abu Ghraib.  
23 Detainees were beaten, sexually humiliated, assaulted, degraded,  
24 and, yes, even tortured by U.S. military personnel acting in  
25 concert with civilian interrogators the U.S. hired to support

1       interrogation operations there. Those civilian interrogators  
2       were employees of the defendant in this case, CACI, or C-A-C-I,  
3       a multinational corporation.

4               Now, everyone at the time, including  
5       then-President George W. Bush and military leadership, condemned  
6       the abuses at Abu Ghraib. They betrayed our national values,  
7       they broke military policy, they violated the law. And  
8       Abu Ghraib has left a stain on this country's reputation.

9               Among those detained at Abu Ghraib are our three  
10       clients, who I would like to introduce you to. And again, my  
11       name is Baher Azmy, and along with our legal team, I'm proud to  
12       represent these clients today.

13               First, if I could draw your attention here, this is  
14       Mr. Salah Al-Ejaili. He's one of the plaintiffs in the case.  
15       He's a freelance journalist who lives in Sweden with his family.  
16       That's Mr. Al-Ejaili pictured on the left. And then also,  
17       Asa'ad Al-Zuba'e, a grocery store owner in Iraq, and  
18       Suhail Al-Shimari, a middle school principal in Iraq. They will  
19       be testifying later by video link. You will hear from  
20       Mr. Al-Ejaili today.

21               So CACI and the plaintiffs agree about certain basic  
22       but important facts. First, we agree that our clients were  
23       detained at a particular part of Abu Ghraib called the hard  
24       site, and in an even more confined space called Tier 1 of the  
25       hard site at the time the worst abuses occurred. We also agree

1 that CACI personnel was working with military personnel in that  
2 confined space, Tier 1, at the same time our plaintiffs were  
3 there.

4 I should hope we agree that our plaintiffs in fact  
5 suffered serious psychological and physical abuses. Their  
6 testimony will make that perfectly clear. And what we obviously  
7 disagree about is, does CACI bear legal responsibility for what  
8 happened to our plaintiffs. We think the evidence suggests the  
9 answer to that is yes, so let me tell you why.

10 But there's one sort of important thing I want to note  
11 first. A number of the military police, including those that we  
12 will show conspired with CACI interrogators, were  
13 court-martialed in a separate military proceeding and held to  
14 account for the abuses they committed at Abu Ghraib. They were  
15 convicted; some served prison sentences.

16 Now, as to CACI, the evidence will show not only did  
17 CACI interrogators encourage MPs to abuse detainees, they  
18 instructed them to do so, and actively and willfully  
19 participated in the abuse of detainees in a manner that makes  
20 them legally responsible.

21 How? One, they conspired with military police; that  
22 is, agreed and created a plan with them to abuse detainees.  
23 Two, they aided -- CACI interrogators aided and abetted military  
24 police to abuse detainees. And the Court will instruct you on  
25 the meaning of those terms towards the end of the case when you

1 apply them together.

2 But why would CACI do so? The evidence will show that  
3 CACI interrogators wanted the military police, who were  
4 basically acting as prison guards, to, quote, "soften up" the  
5 detainees before interrogation. "Soften up" means sort of break  
6 them emotionally in anticipation of the interrogations that CACI  
7 was managing.

8 Most of the abuses you'll see happened on the night  
9 shift at Abu Ghraib, just before or after interrogations. And  
10 while CACI interrogators undertook that behavior, the  
11 corporation benefitted to the tune of millions of dollars.

12 Let me talk about the evidence in this case. First I  
13 want to take you back to 2003, as Judge Brinkema briefly did.  
14 You may remember a U.S.-led coalition invaded Iraq and toppled  
15 the dictatorship of Saddam Hussein. Chaos eventually ensued,  
16 and the U.S. wound up sweeping up thousands of Iraqi citizens  
17 and detaining them. That included our clients, who were  
18 detained in the notorious prison at Abu Ghraib, which the  
19 United States had repurposed for detention operations. The U.S.  
20 lacked sufficient personnel to undertake interrogations of the  
21 individuals they were detaining, so they awarded CACI a  
22 lucrative contract to provide interrogation services to the  
23 United States.

24 Let's take a look at the contract. Some of the key  
25 provisions is, CACI was supposed to -- the interrogators were

1 supposed to function as, quote, "resident experts" in  
2 interrogation, and the contractor - that's CACI - is responsible  
3 for providing supervision for all contractor personnel. CACI is  
4 a very large corporation, but in 2003 they were not in the  
5 business of conducting interrogations. In fact, they had to  
6 scramble to hire interrogators to fulfill the contract. The  
7 evidence will show, far from resident experts, they hired people  
8 who were unqualified to undertake interrogations.

9 Let me introduce you to some of them you'll hear a bit  
10 about. There's Steven Stefanowicz, also commonly known as  
11 Big Steve. Far from being a resident expert, he had never  
12 interrogated a detainee in his life. Prior to being sent to  
13 Iraq, he was selling jet skis in Florida. Dan Johnson, known as  
14 DJ, he was very young and very unqualified; Tim Dugan, similarly  
15 unqualified. So nevertheless, these so-called experts were sent  
16 to Abu Ghraib to undertake interrogations with military police.

17 Let's talk a little bit about Abu Ghraib. It's a  
18 sprawling facility, but it's clear that the abuses I said  
19 occurred in the small and confined space called Tier 1,  
20 particularly Tier 1A, within something called the hard site. If  
21 you take a look, the black box there represents the hard site,  
22 and the red area is Tier 1, where CACI interrogators were  
23 operating with military police and our clients were detained.

24 We can look inside as well. You can see, it's a prison  
25 with two tiers, and, importantly, sort of an open view. Which

1 makes it, in our view, impossible not to have known what was  
2 going on.

3 So CACI arrived at Tier 1, the hard site, in  
4 September 2003, CACI interrogators, and they began working with  
5 military police to develop interrogations. A word about  
6 terminology. When I use the term "MPs," I'm talking about  
7 military police who were there to administrate the facility and  
8 largely act as prison guards. When I use the term -- and when  
9 in the documents it uses the term "MI," that means military  
10 intelligence. That includes CACI, for our purposes.

11 And then our clients, Salah, Asa'ad, and Suhail,  
12 arrived to Tier 1A of the hard site in the fall of 2003, where  
13 CACI was operating. And from the first night they endured  
14 horrific abuses that continued throughout their detention at the  
15 hard site and scars them to this day.

16 Now, I'm going to show you some pictures now. The  
17 curious thing about the Abu Ghraib scandal is people took a lot  
18 of pictures. We have a lot, and we're going to show you some of  
19 them. And I want to be clear that the pictures I'm about to  
20 show you are not of our clients, but they are illustrative of  
21 the kinds of abuses our clients endured. I also want to warn  
22 you, they are shocking and upsetting, hard to look at, let alone  
23 understand. But it's important to understand.

24 This is an example of what we'll refer to as sexual  
25 humiliation. Here's a detainee being terrified by an unmuzzled

1 dog. And this is important. If you look closely, you can see a  
2 detainee in what we will call a stress position. Notice they're  
3 hooded for maximum disorientation, and their hands are spread  
4 apart in a contorted position that was designed to cause severe  
5 discomfort. Our clients will talk about similar stress  
6 positions.

7 And you'll hear the ways in which CACI controlled the  
8 MPs there. They instructed MPs to abuse detainees by telling  
9 them to treat them like shit, to soften them up, to set  
10 conditions for interrogations by, among other things, stripping  
11 them naked, placing them in painful stress positions for  
12 extended periods of time, cuffing them to bars, depriving of  
13 food and sleep. And, as I mentioned, CACI did this in order to  
14 terrify the detainees before they came to interrogations, and  
15 the MPs willingly obliged because they considered themselves a  
16 brotherhood with interrogators.

17 So when the military learned about these abuses, they  
18 were shocked and determined to understand why this happened.  
19 They commissioned a number of investigations that are going to  
20 be central to this case.

21 First, Major General Antonio Taguba, you will hear  
22 from, went to Iraq and undertook an investigation by  
23 interviewing a number of witnesses and reviewing many documents,  
24 and he produced a report that documented unequivocal evidence of  
25 abuse of detainees. And the kinds of abuses he documented are

1 precisely the kinds of abuses our clients suffered. This is  
2 from his report: Punching, slapping, kicking detainees, forcing  
3 detainees to remove their clothing, keeping them naked for  
4 several days at a time, forcing naked male detainees to wear  
5 women's underwear, using military working dogs without muzzles  
6 to intimidate and frighten detainees.

7 Major General Antonio Taguba also interviewed one of  
8 the CACI interrogators, Big Steve, and this is his conclusions  
9 after interviewing Big Steve. It says, "Civilian interrogator  
10 with CACI, a part of the MI." He found that "Big Steve allowed  
11 and/or instructed MPs to facilitate interrogations by, quote,  
12 setting the conditions," a term you've heard. He clearly knew  
13 his instructions equated to physical abuse.

14 And what else did he learn from interviewing Big Steve?  
15 Big Steve gave a false statement to the investigation team  
16 regarding locations of his interrogations, the activities during  
17 his interrogations, and his knowledge of the abuses. Please  
18 keep this finding in mind when you consider the testimony of  
19 Big Steve in court.

20 There's another investigation undertaken by  
21 Major General George Fay, and his task was in particular to  
22 investigate the role of military intelligence, including CACI.  
23 So he traveled to Iraq, he interviewed almost 200 witnesses and  
24 reviewed thousands of pages of documents, and also produced a  
25 report.

1           In that report he found dozen of instances of abuse,  
2           and that interrogators requested, encouraged, condoned, or  
3           solicited MP abuse of detainees. He stated that such treatment  
4           of detainees violated U.S. criminal law or international law,  
5           and was treatment that was inhumane or coercive without  
6           justification. Without justification.

7           And he also documented abuses of the kind our clients  
8           suffered. This is a major general. Physical abuse, slapping,  
9           kicking, twisting of the hands of the detainee; use of dogs,  
10          which are sometimes permissible, but not when they're used to  
11          threaten and terrify the detainees. It's a violation of  
12          applicable laws and regulations. Nakedness, a seemingly common  
13          practice of keeping detainees in a state of undress. You will  
14          hear that over and over again. Male detainees were naked in the  
15          presence of female soldiers. The nakedness was clearly  
16          degrading and humiliating, as you'll hear, particularly for  
17          individuals of the Muslim faith.

18          He concluded that these actions were intended to  
19          degrade or humiliate a detainee, and are prevented by - GC4  
20          stands for the Geneva Conventions, which represents the  
21          humanitarian laws of war - Army policy, and the Uniform Code of  
22          Military Justice. It violated law and military policy.

23          And he also interviewed or investigated a number of  
24          CACI interrogators. Tim Dugan is Civilian 5 in this report. He  
25          found that he abused a detainee, a CACI interrogator.

1 Dan Johnson, DJ, is Civilian Interrogator Number 11. He  
2 encouraged Staff Sergeant Frederick, an MP who was  
3 court-martialed, to abuse an Iraqi police detainee. And he also  
4 used dogs to threaten a detainee and put a detainee in an  
5 unauthorized stress position.

6 And then is Big Steve, who is Civilian Number 21.  
7 Inappropriate use of dogs was reported by Soldier 26.  
8 soldier 25, somebody else, reported inappropriate use of dogs.  
9 Captain Reese reported that he pushed or kicked a detainee in  
10 the cell with his foot. He made false statements, including  
11 about dogs. Remember, Major General Taguba said that as well.  
12 Again, keep that in mind when Big Steve testifies.

13 A different interrogator, civilian, stated that he  
14 heard Big Steve tell several people that he had shaved the hair  
15 and beard of a detainee - you will hear that that is also  
16 particularly degrading to Muslim detainees - and put them in red  
17 women's underwear, and was allegedly bragging about it.

18 So that's what the evidence will show. It will show  
19 that plaintiffs suffered treatment that constitutes torture or  
20 cruel, inhuman, or degrading treatment; that CACI conspired or  
21 aided and abetted in that abuse; and that they're legally  
22 responsible for that behavior and are obligated to compensate  
23 plaintiffs.

24 How will we prove this? There will be different kinds  
25 of evidence. You'll hear from the MPs, who will testify that

1 CACI instructed them to treat them like shit to set the  
2 conditions, and to soften up detainees for interrogation.  
3 You'll hear from the major generals, Taguba and Fay, and their  
4 conclusions of findings implicating CACI. You'll hear from a  
5 CACI interrogator, Torin Nelson, who was there when it happened.

6 You'll obviously also hear from CACI, naturally.  
7 They're likely to offer two lines of defense. First, they're  
8 likely to place the blame on the MPs alone and say that CACI  
9 interrogators never laid a hand on detainees or our clients. I  
10 want to stress that this is irrelevant under the law and a major  
11 distraction in this case. CACI is liable for simple reasons.  
12 One, they instructed MPs to abuse detainees; two, MPs agreed to  
13 do it; three, the MPs did it. They followed the plan and abused  
14 the detainees, which resulted in the cruel, inhuman, and  
15 degrading treatment and torture of our clients.

16 CACI may also place the blame on the U.S. military, say  
17 they were just following orders to abuse detainees. Here I want  
18 you to use your good judgment and common sense in evaluating  
19 that defense. Consider again the general's testimony that this  
20 violated military policy and the law.

21 And, of course, you'll hear from the plaintiffs  
22 themselves. It's very hard for them to testify about this.  
23 It's very painful, shameful. But they will collectively talk  
24 about how they were repeatedly beaten, including on the head;  
25 they were kept naked for prolonged periods of time; they were

1 sexually assaulted and humiliated; they were kept in those  
2 stressful -- painful stress positions I talked about, including  
3 while being naked. They were kept in freezing cold  
4 temperatures, including while being in a stress position and  
5 naked for prolonged periods of time. I'm talking overnight.  
6 They were threatened with dogs, they were denied food and sleep  
7 and their basic human dignity. You will also hear how they  
8 witnessed many others enduring similar cruel treatment and  
9 torture in the small confines of Tier 1.

10 For Salah, Asa'ad, and Suhail, the emotional pain of  
11 this torment continues to this day. It causes them visible  
12 psychological problems, depression, anxiety, anger, nightmares,  
13 headaches. They'll testify there was a before Abu Ghraib and  
14 after, and 20 years hence it still lingers, the emotional  
15 damage.

16 THE COURT: Counsel?

17 MR. AZMY: Salah, Asa'ad, and Suhail are courageous  
18 individuals who have been waiting a very long time to tell their  
19 story in a court of law. We ask you to listen carefully to  
20 their story, and at the end of this case return a verdict in  
21 their favor for what they have endured. And we know if you do  
22 so, you couldn't cure the stain of Abu Ghraib, America's  
23 reputation. But you do have the power to provide these  
24 plaintiffs the measure of justice they have come into this court  
25 to seek.

1 Thank you.

2 THE COURT: Thank you, counsel. All right. We'll hear  
3 the opening statement of CACI.

4 MR. O'CONNOR: Good afternoon. My name, again, is  
5 John O'Connor. I'm proud to represent CACI here today along  
6 with the rest of our defense team. I hope you listened to all  
7 of the judge's instructions, but one she gave you this morning I  
8 think is really important, and that is, what I say, what  
9 Mr. Azmy says, that's not evidence. Evidence is what someone  
10 gets in that chair and says, or what you read in a document or  
11 what you see when someone testifies from a deposition that you  
12 hear in evidence.

13 So when plaintiffs say that they're going to show  
14 things about my client, the company, I hope you hold them to  
15 that standard, that what they're saying is not evidence, and  
16 let's show it. And I hope you hold us to that standard too,  
17 because we're perfectly happy to take on that standard.

18 So CACI, I think the judge told you this morning, is a  
19 government contractor, used to be -- it was headquartered in  
20 Arlington forever, and now is in Reston for the last couple of  
21 years; provides a lot of goods and services to the United States  
22 government. One of those ended up being providing some  
23 interrogators, because the Army was dreadfully short of  
24 interrogators in Iraq.

25 And, as Mr. Azmy said, CACI was not in the

1       interrogation business. But what it said was: You need  
2       interrogators, we will find interrogators that meet your  
3       criteria, that meet the Army's criteria. We will send them over  
4       there, and you, the Army, are going to supervise them. You're  
5       going to put your chain of command in charge of them, you're  
6       going to assign them work, you're going to decide what detainees  
7       they will interrogate, you're going to approve the interrogation  
8       plans for them just like you do for an Army interrogator that's  
9       over there. They're treated exactly the same.

10               Now, for years these plaintiffs have hurled accusations  
11       and wrongly accused CACI of condoning torture in Iraq, and  
12       that's not true. They've accused CACI personnel, from the CEO  
13       to entry level employees, of being torture conspirators. Not  
14       true. Let's see what the evidence shows about that during this  
15       trial that you're going to be here for this week and next.

16               Plaintiffs' theory, again, is not that a CACI employee  
17       ever laid a hand on them, and there's no evidence that they did.  
18       But what they're trying to do is they're trying to say, oh,  
19       three people from CACI ended up being named in government  
20       reports for engaging in misconduct, and they want to then prey  
21       on your emotions to say, well, then, I'm just going to assume  
22       that those three people had something to do with whatever may  
23       have happened to these plaintiffs. And the evidence doesn't  
24       support that.

25               The evidence of any involvement of CACI personnel in

1 the treatment, good, bad, or otherwise, of the three plaintiffs  
2 in this case is essentially nonexistent, and you're going to see  
3 that throughout the evidence that comes in in this case.

4 So don't blur the line between bad things happened at  
5 Abu Ghraib prison. We agree with that. You're going to see a  
6 lot of bad pictures of detainee abuse from Abu Ghraib prison.  
7 They're just as disturbing to us as they will be to you. They  
8 showed you some; I'm going to show you some in a couple of  
9 minutes. But when you see those pictures, we hope you'll give  
10 them a critical look and say to yourself two things: One, what  
11 if anything does that picture have to do with these plaintiffs?  
12 Because the answer is almost always, nothing. And two, what  
13 does that picture have to do with CACI? Because the answer to  
14 that is almost always, nothing.

15 And when you hear the evidence -- and you will hear  
16 from plaintiffs, and they're going to talk to you about what  
17 they say happened to them at Abu Ghraib prison, and because  
18 they're suing a contractor that provided interrogators, they're  
19 going to say that a lot of bad things happened during  
20 interrogations. You're going to hear from nine different  
21 people, soldiers, CACI employees, and translators, who were  
22 present for every interrogation that any of these plaintiffs was  
23 subjected to at Abu Ghraib prison. And what they're going to  
24 say is, nothing like what they allege ever happened in any  
25 interrogation that I participated in. They don't remember these

1 plaintiffs, but they're going to say, I know that what they're  
2 saying did not happen in any interrogation that I ever  
3 participated in because that sort of stuff just didn't happen.

4 So let's turn to Abu Ghraib prison. Some of you would  
5 have been around 20 years ago when the scandal hit, and the  
6 pictures were disturbing. There's a lot of pictures. And  
7 another thing we agree on, there's a lot of pictures of  
8 detainees being mistreated at Abu Ghraib prison. Most of those  
9 have -- well, many of those have MPs in the pictures actually  
10 abusing detainees. And a lot of those MPs, a lot of the ones  
11 who are going to provide testimony for the plaintiffs in this  
12 case, they're criminals. They were court-martialed, properly;  
13 they were convicted, properly; they were kicked out of the Army,  
14 properly; they were sentenced to years in jail, properly. And  
15 that's all correct, and we agree that that was all appropriate.

16 But what you're also going to hear is that when they  
17 were charged, they were all over the media saying, we're  
18 innocent; this was all about -- you know, the chain of command  
19 did it, the military intelligence made us do it. And in the  
20 end, that mostly turned out not to be true. Most of the  
21 abuses -- and I'll show you a clip from one of the  
22 investigators. Most of the abuses that occurred at Abu Ghraib  
23 had no connection with interrogations. They were MPs who were  
24 sadistic, who were criminals, and who did it on their own for  
25 their own purposes and who didn't encourage anybody.

1           Here's a picture. Those of you who were an adult  
2           20 years ago may have seen this one. This was an iconic,  
3           notorious picture from Abu Ghraib prison. What's the  
4           involvement of military intelligence personnel or CACI personnel  
5           in that abuse? None.

6           You're going to hear that from former  
7           Private Frederick, who once was Staff Sergeant Frederick, that  
8           this guy was brought in to Abu Ghraib prison by an Army Criminal  
9           Investigation Division agent, he handed him to the MPs and said:  
10          Keep him up all night. And then that criminal investigation  
11          agent, who has nothing to do with military intelligence, he  
12          left. And what did the MPs do? They did things like that.  
13          They abused the guy, they had him stand there, they hooked up  
14          wires to his fingers, they did other things to him, too. No  
15          involvement with military intelligence.

16          Another notorious picture. Many of you may have seen  
17          the naked pyramid 20 years ago. What's the involvement of  
18          military intelligence or CACI in that? Nothing. Those  
19          detainees who are in that pile, they had no intelligence value.  
20          They were brought to the hard site to segregate them from people  
21          who were living in the open air tent camps at Abu Ghraib, and  
22          they got brought down and the MPs went and abused them. Nobody  
23          was ever going to interrogate those guys. They just abused  
24          them, they sexually humiliated them, and they all got  
25          court-martialed for it, and properly so.

1           Some of you may have seen the dog leash picture.  
2           That's two MPs in the picture. No involvement of military  
3           intelligence, no involvement of CACI. That was just, again,  
4           they were sick. They were bad people, they were criminals.  
5           Didn't have anything to do with getting somebody prepared for an  
6           interrogation.

7           There is one picture -- when I said when you look at  
8           the pictures, what does it have to do with CACI, there's one  
9           picture of a CACI employee with a detainee. And I use air  
10          quotes for a reason. There's the picture. That's  
11          Daniel Johnson. The guy in the orange jumpsuit was an Iraqi  
12          police officer who was being questioned. Mr. Johnson in that  
13          picture, he was found in some of the reports to have improperly  
14          had that man squat in that chair while he was being questioned.  
15          That's it. That's the only picture. Out of the hundreds and  
16          hundreds of pictures you're going to see of detainees being  
17          abused, that's the only one where you're going to see a CACI  
18          employee anywhere.

19          Investigations -- I'll back up. Abu Ghraib was one of  
20          the most heavily and thoroughly investigated events in recent  
21          American history, and there are a few government reports that  
22          came out of that. And there's a few things that we learned from  
23          that investigation. The first one is, the vast majority of the  
24          soldiers and civilians who served at Abu Ghraib prison, they  
25          served honorably and they were a credit to their country. They

1 didn't abuse detainees, they didn't condone abuse of detainees,  
2 and if they saw abuse of detainees, they reported it. Many,  
3 maybe most of the soldiers and civilians who served at  
4 Abu Ghraib prison, never saw detainee abuse. You'll hear from  
5 them and they'll say: I saw this one minor thing and reported  
6 it.

7           The second thing we learned is, there's no question  
8 that abuse occurred. I mean, you've seen some of it already.  
9 You'll see more of it. And a handful of bad apples did it.

10           And the third thing you're going to learn is, the vast  
11 majority of the abuse that occurred at Abu Ghraib prison was  
12 committed by MPs who were terrible people, and the abuse had no  
13 connection to the interrogation mission.

14           Investigations. Plaintiffs told you about  
15 General Taguba. General Taguba, he was assigned to  
16 interrogate -- or to investigate MPs, the military police  
17 brigade. He made findings about the MPs. He had a very limited  
18 window into military intelligence. He was only allowed to  
19 interview four people. He was not given access to any of the  
20 records, interrogation plans, interrogation records. So he  
21 viewed his role as flagging things that he thought, quote,  
22 "might be credible" so they could be investigated by somebody  
23 else. And that was General Fay.

24           General Fay, his investigation was of military  
25 intelligence. He identified 44 instances of detainee abuse at

1 Abu Ghraib prison. His basic role was, if there was credible  
2 evidence of detainee abuse, he put it in the report. If  
3 somebody tore a tag off a mattress, General Fay put it in the  
4 report. He found 44 of them. Most of them didn't have anything  
5 to do with military intelligence. Only 16 did he find have any  
6 connection at all to military intelligence personnel. He also  
7 found that 54 different soldiers and civilians were culpable in  
8 some way for various acts of detainee abuse, but that most of  
9 the violent sexual abuses didn't have anything to do with  
10 interrogations.

11 Now, out of the 54, how many were CACI employees?  
12 Three, possibly four, depending on how you count. One CACI  
13 employee was mentioned in passing on a long list of soldiers and  
14 one interrogator who they used an interrogation approach they  
15 thought was approved, but it wasn't approved, and basically they  
16 made an honest mistake and they should be counseled but nothing  
17 bad should happen to them.

18 The other three, Tim Dugan. You heard plaintiffs talk  
19 about Tim Dugan. General Fay found he did one thing that  
20 related to a detainee, that he dragged an Iraqi general off the  
21 back of a Jeep and dragged him to an interrogation booth.  
22 That's not one of these plaintiffs. That's one thing associated  
23 with Tim Dugan in the Fay report.

24 Daniel Johnson, his misconduct related to, as stated in  
25 the Fay report, Iraqi police, not detainees. No finding against

1 him in the Taguba report, no evidence that he or Dugan, for that  
2 matter, interacted with these plaintiffs in any way.

3 Steve Stefanowicz, both General Taguba and General Fay  
4 found that he had been involved with the unauthorized use of  
5 dogs for interrogations and clothing removal, but they also  
6 found that it was only for detainees who were assigned to  
7 Steve Stefanowicz for interrogation. The evidence is  
8 irrefutable that Steve Stefanowicz was not assigned to  
9 interrogate any of these three plaintiffs in this case.

10 The only interaction at all, the evidence will show, is  
11 that he had one innocuous interaction with plaintiff Al-Ejaili  
12 during IP roundup when they were -- when Iraqi police were being  
13 questioned. He showed up, he was chatting with Al-Ejaili;  
14 another interrogator came up to him and said: That guy is  
15 assigned to me, no one is supposed to talk to him. And he said,  
16 right-o, and he left. That's it. That's the only connection  
17 between any of these three interrogators and any of these  
18 plaintiffs.

19 Plaintiffs have three hurdles they have to clear in  
20 this case. Were they subjected - they, not detainees - were  
21 they subjected to torture, CIDT, or war crimes at Abu Ghraib  
22 prison. Actually if they were. And they're going to give you  
23 testimony and they're going to talk -- they're suing a  
24 government contractor that provided interrogators. They're  
25 going to talk about being abused during interrogations, but as I

1 mentioned earlier, we have nine witnesses who will say, nothing  
2 like they say happened in their interrogations ever happened in  
3 one that I attended. And those are every single interrogation  
4 that the United States says these plaintiffs were subjected to.

5 When you decide who to believe between plaintiffs and  
6 the interrogators, we hope you will consider whether plaintiffs'  
7 stories have changed over time and whose testimony best matches  
8 what the United States documentary records are. The  
9 United States says Mr. Al-Ejaili was never formally  
10 interrogated. He says he was interrogated 10 to 12 times, but  
11 there's no record of them.

12 Unfortunately, I would love to put all of those  
13 interrogators and translators, all nine of them, in that box and  
14 let you look them in the eye. I can't do that. The  
15 United States says their identities are classified; the Court  
16 has agreed that they're classified state secrets. You're going  
17 to hear them by tape recording. That's the best I can do. Most  
18 of our witnesses are not going to be here live because either  
19 their identities are being withheld as classified or they are  
20 dead or in ill health or not in this jurisdiction and can't be  
21 required to come here. We'll have a few live witnesses for you.  
22 But I apologize, most of our witnesses you're going to see by  
23 video, by being read in, or by listening to the pseudonymous  
24 interrogators' recorded testimony.

25 Second hurdle. If these plaintiffs were abused, what's

1 the connection between that and CACI employees? Again, as I  
2 said earlier, you're not going to hear of any significant  
3 connection between CACI employees and the treatment of these  
4 plaintiffs. It's just not there.

5 They've made claims for conspiracy. That requires an  
6 agreement. You're not going to hear any evidence of an  
7 agreement. Who agreed with CACI personnel to abuse these  
8 plaintiffs? You're not going to hear any evidence of that. If  
9 these plaintiffs were abused by MPs, in what way did a CACI  
10 employee aid and abet that? And, if so, how did they do it?  
11 You're not going to hear any evidence of that.

12 And then the last hurdle. Even if individual CACI  
13 employees engaged in misconduct that related to these  
14 plaintiffs, which there's not really any evidence of that, the  
15 question is, my client is not those former employees, my client  
16 is the company CACI, and should CACI be liable for such conduct  
17 if it occurred. And that comes down to who had the power to  
18 control CACI employees at Abu Ghraib prison in their activities  
19 interrogating detainees.

20 And the clear answer that, you're going to hear from  
21 witness after witness after witness, is the Army. The Army is  
22 pretty jealous about who has control of operations in a war  
23 zone. The Army wants to keep that control.

24 And it's not just that you're going to hear it from  
25 witnesses. This is the official position of the United States,

1 that for interrogations of these plaintiffs, if they were  
2 interrogated, the interrogations were subject to the direction  
3 of the military chain of command, beginning with the section  
4 leader and then a noncommissioned officer in charge, all the way  
5 up to the officer ranks. CACI only provided administrative  
6 support. Got them to Iraq, got them paid. If they needed to  
7 take leave, they were to work that out with the United States  
8 Army. But in terms of actually conducting the operational  
9 mission, that was the Army's deal. That's how they wanted it  
10 and that's how it was.

11           Going further, what else does the United States say?  
12 No CACI personnel were in this chain of command as it related to  
13 interrogation operations. When Mr. Azmy got up, he spoke  
14 eloquently about a lot of subjects. But you know a thing he  
15 never talked about is CACI the company, and why the company that  
16 simply provided employees to the Army, so the Army could  
17 supervise them, ought to be held liable if you are able to  
18 conclude these detainees were abused and if you are able to  
19 connect that in some way to CACI employees.

20           As I said earlier, this is going to be -- if we could  
21 have up to two weeks, we appreciate your focus. It's going to  
22 be difficult at times. You're going to hear a lot of recorded  
23 evidence that can be boring. But we appreciate your focus, we  
24 appreciate your attention. CACI is a respectable, proud  
25 company, and it finds it -- it's very important to the company

1 that you focus and reach a decision that's just in this case  
2 under the facts that are actually presented in this case, and  
3 not be bound by things like emotion, conjecture, or making up  
4 connections that aren't there. Thank you.

5 THE COURT: All right. Call your first witness.

6 MR. FARIDI: The plaintiffs wish to read a few  
7 paragraphs in a stipulation that the parties have agreed to.

8 Stipulation of facts, Paragraph 1: Abu Ghraib prison  
9 is a prison facility located in Abu Ghraib, Iraq.

10 Paragraph 2: Between mid 2003 and August 2006, the  
11 United States used the Abu Ghraib facility to hold detainees.

12 Paragraph 3: The United States housed thousands of  
13 detainees in different parts of the Abu Ghraib facility,  
14 including within the prison building. The prison building was  
15 often referred to as a hard site.

16 Paragraph 4: Some of the detainees who the  
17 United States believed might have intelligence value were held  
18 in a portion of the hard site known as Tier 1A.

19 We're going to skip to Paragraph 19 and Paragraph 20.

20 Paragraph 19: Plaintiff Salah Hasan Nusaif  
21 Jasim Al-Ejaili was detained at Abu Ghraib prison from  
22 approximately November 9, 2003 until on or about December 20th  
23 or 21st, 2003.

24 Paragraph 20: Mr. Al-Ejaili was assigned ISN 152735.  
25 Your Honor, plaintiffs call Mr. Al-Ejaili to the

1 witness stand. And we have binders that we will pass up.

2 THE COURT: All right. And the interpreter will need  
3 to be up here with the witness.

4 MR. FARIDI: The interpreter is on her way, Your Honor.

5 THE COURT: First we will swear the interpreter.

6 (Oath administered by courtroom deputy clerk.)

7 THE COURT: May we have your name for the record?

8 THE INTERPRETER: Rodina Mikhail, Arabic interpreter.

9 THE COURT: Thank you.

10 Now we'll have the witness affirmed.

11 (Oath administered by courtroom deputy clerk.)

12 THE COURT: Now we'll have the books.

13 **(SALAH HASAN NUSAIF JASIM AL-EJAILI, having been duly sworn,**  
14 **testified as follows:)**

15 **EXAMINATION BY COUNSEL FOR PLAINTIFFS**

16 **BY MR. AZMY:**

17 Q. Good afternoon, Mr. Al-Ejaili. Can you please state your  
18 full name for the record.

19 A. My name is Salah Hasan Nusaif Al-Ejaili.

20 Q. How old are you?

21 A. 53 years old.

22 Q. Where do you currently reside?

23 A. I live in Sweden.

24 Q. With whom do you live? Who do you live with?

25 A. I live with my family and my children.

1 Q. How old are your children and where are they in school?

2 A. My older daughter, her name is Taqwa, she's 21 years old and  
3 currently studies at the university. And Mustafa is getting  
4 ready to join university next year. The youngest is Ghaith,  
5 he's in ninth grade.

6 Q. Do you have any other children?

7 A. Yes, I do have a son from a previous marriage.

8 Q. How old is he?

9 A. He is 32 years old.

10 Q. Where were you born and raised?

11 A. I was born and raised in Iraq.

12 Q. And what's your primary language?

13 A. My main language is Arabic.

14 Q. Do you speak any other languages?

15 A. Some English and some Swedish.

16 Q. Do you practice a religion?

17 A. I am Muslim.

18 Q. What level of schooling did you achieve and in what area?

19 A. I graduated from university in Iraq, education, history  
20 department.

21 Q. Okay. Did you have a profession or a career while you were  
22 in Iraq?

23 A. Yes, I worked in a company for -- an electrical company, and  
24 then after that I got an opportunity and I worked with  
25 Al-Jazeera channel.

1 Q. When did that start, working for Al-Jazeera?

2 A. It was in 2003.

3 Q. Can you explain, what is Al-Jazeera?

4 A. So it's a satellite TV channel known in the Arab world.  
5 It's also internationally known. It's concerned mostly with  
6 Arabic causes and also with international causes.

7 Q. How long did you work for Al-Jazeera?

8 A. 14 years.

9 Q. You told us you and your family now reside in Sweden. Can  
10 you briefly explain how that came about?

11 A. Since 2005, after the security matters deteriorated in Iraq,  
12 I was thinking constantly about finding a safe haven for me and  
13 my family and my children. And then, after that, I was able to  
14 leave Iraq in 2017. There was a chance for me to go to Sweden,  
15 and in Sweden I applied for asylum.

16 Q. Do you have status there now?

17 A. Yes. We became Swedish nationals.

18 Q. Are you currently employed in Sweden?

19 A. I still work in journalism as a freelancer.

20 Q. I would like to focus on the fall of 2003. Where were you  
21 living in the fall of 2003?

22 A. I used to live in Iraq.

23 Q. What were you doing for a living at that time?

24 A. So in June of 2003 I started working with Al-Jazeera  
25 channel.

1 Q. Did there come a time in the fall of 2003 that you were  
2 detained by the United States at the Abu Ghraib prison?

3 A. Yes.

4 Q. Do you remember the date you arrived there?

5 A. So it was November 8, 2003.

6 Q. How is it that you remember that exactly?

7 A. To start with, it's an important date in my life. And then,  
8 after that, from time to time I would check the site of CCR to  
9 check the updates on the case.

10 Q. Why is it an important date in your life?

11 A. It was a significant date because my life before was not the  
12 same as my life after that date.

13 Q. Were you familiar with the Abu Ghraib prison before you  
14 arrived there?

15 A. Yes.

16 Q. Did it have a reputation in Iraq before you arrived there?

17 A. Before 2003, we knew Abu Ghraib prison. It was a prison  
18 used by the prior regime. It had a bad reputation. After 2003,  
19 what I know is it became a detention center for the  
20 United States forces.

21 Q. Okay. When you were taken to Abu Ghraib -- where were you  
22 taken when you first arrived at Abu Ghraib?

23 A. They put us in tents called temporary tents.

24 Q. And where were you taken after those temporary tents?

25 A. After that we were taken to a room, a big hall. It was

1 called the computer hall.

2 Q. Okay. Can you describe the hall and who was there?

3 A. So it was a rectangular room, a big room, and it had many  
4 computers and many American individuals.

5 Q. Okay. Did there come a time when you were taken out of that  
6 room or that area?

7 A. Yes, in the computer room they took some information from  
8 me. So an American man came and called me by my name, they took  
9 me to a room that's adjacent to the computer room that's a  
10 smaller room.

11 Q. And what happened in that room?

12 A. So this room had three individuals in it. They started an  
13 interrogation session with me.

14 Q. Can you describe the people in the room?

15 A. So a man started the interrogation with me. There was  
16 another person that was interpreting. The third person was  
17 silent during the whole interrogation session.

18 Q. Do you recall what that third person was wearing?

19 A. Except the two individuals, the interrogator and the  
20 interpreter, who were both wearing military uniforms, the third  
21 person was dressed as a civilian, safari outfit.

22 Q. Were you taken someplace after this interrogation?

23 A. I forgot to mention that a third person was the big built.  
24 He was tall and a big man, and he was giving me sharp looks  
25 during the whole session. He was white and he had a goatee, and

1 I believe his head was shaven.

2 In that room the interrogator asked me if I suffer any  
3 medical problems. I mentioned that I have stomach problems. So  
4 he reassured me and said, don't worry about it, we're going to  
5 transfer you to a place where you are going to be comforted.

6 After that, a man came, they took me with a bag on top  
7 of my head, and with my hands have the shackles on them, and  
8 then they took me in a vehicle to a different place from the  
9 place we were at.

10 Q. Okay. And what happened when you arrived at this new place?

11 A. In that place I was handed to two individuals. I had a  
12 black bag on top of my head. They started to scream and ask me  
13 in a very loud voice. One of them was screaming in my right  
14 ear, the other one was screaming in my other ear, screaming  
15 loudly, "Confess, confess." I would answer, "What do you want  
16 me to confess to?"

17 "Confess to everything."

18 After that, they left me.

19 Q. Did there come a time when someone else came to -- came to  
20 you?

21 A. After that, another person came. He took me with him and we  
22 walked about 10 minutes.

23 Q. Okay. And then what happened? Where did he take you?

24 A. We got to a place, it seemed like it was an open place. I  
25 remained standing in that spot.

1 Q. Okay. I'm going to talk about that area where he took you.  
2 Can you take a look at the tab in your notebook labeled PTX- 13?

3 THE COURT: Any objection to 13?

4 MR. O'CONNOR: It's already in evidence, Your Honor.

5 THE COURT: Right.

6 Q. What is this a picture of?

7 A. So this is a picture of the detention of Abu Ghraib, the  
8 ground floor.

9 Q. And as far as you remember, does that look like the area you  
10 were brought by this man?

11 A. Yes, it's the same place.

12 Q. Okay. And the person who brought you there, did he tell you  
13 to do anything?

14 A. As soon as we got to that place, he gave me a command to  
15 undress.

16 Q. Okay. Did you undress fully?

17 A. At the beginning I only took off my pants and my shirt.

18 Q. Okay. And did you eventually remove all of your clothing?

19 A. After that he commanded me to take off all my clothes. At  
20 the beginning I tried to object, but --

21 THE INTERPRETER: Interpreter got a clarification.

22 A. But after that his tone was quite sharp, and he screamed at  
23 me, "If you don't take your clothes off with your own hands, I  
24 will take it off with my hands."

25 Q. Were you -- at any point during this interaction were you

1 able to observe his face?

2 A. Yes. After I tried to take off my undershirt, it was  
3 difficult for me to take it off with the bag on top of my head.  
4 So the bag on top of my head ended up coming off and I took off  
5 my undershirt. Then I took off the rest of my clothing, but in  
6 the meantime I was able to see who it was.

7 Q. After you were fully naked, did he do anything else to you?

8 A. He left me in that place. He left me in that place, but  
9 before he left me, he got a fabric and then he tied my hands  
10 behind, I believe tied me in a pipe that was in the wall. But  
11 he did not tighten me in a thorough way. And then, after that,  
12 he just had my arms tied behind me.

13 Q. Can you show the jury how your arms were tied behind you?

14 A. It was in this manner.

15 Q. And you were naked?

16 A. Yes, I was completely naked.

17 THE COURT: Wait. For the record, the witness put his  
18 hands and sort of crossed them behind the back of his head.

19 MR. AZMY: Thank you, Your Honor.

20 Q. About how long were you left in this position, tied and  
21 naked?

22 A. I remained from the night of that day until the morning of  
23 the day after.

24 Q. Were you able to move?

25 A. I had the black bag on top of my head. It was difficult for

1 me to move, and I was scared to move because I did not know what  
2 could happen to me if I moved.

3 Q. Were you able to sleep?

4 A. No, not at all.

5 Q. Were you given food or water?

6 A. No. I remained that night without food or any water.

7 Q. What was the temperature like that evening?

8 A. So it was during November. It was cold weather, and inside  
9 the detention center was even colder. There were also multiple  
10 fans in the ceiling. All the fans were turned on to the highest  
11 speed.

12 Q. Can you describe for the jury how it felt physically to have  
13 your hands tied behind your back overnight?

14 A. Severe pain in my joints and my shoulders and in my hands.  
15 Also, my whole body was shivering, my legs as well. I remember  
16 I was trying to sit down out of exhaustion, but I would get  
17 caught, "Get up, don't sit down." I remember once I was not  
18 able to get up. That same person came, they pulled me, and they  
19 got me to stand up by his hand.

20 Q. Can you describe how it felt emotionally or psychologically  
21 to be naked, exposed and naked overnight?

22 A. For me it was a huge shock, fear and terror. I did not know  
23 what could happen to me after this. I felt humiliated. I had  
24 no control on what would happen to me or what's happening around  
25 me. I could not stay away any harm that could happen to me. It

1 was quite an awe situation, and painful situation. I wished to  
2 die and not go through that.

3 Q. Were there any cultural or religious reasons this was  
4 particularly difficult for you?

5 A. So culturally, to be naked is considered a huge shame. We  
6 were brought up since children on that, it's sinful, shameful to  
7 be naked in front of anyone. Religious-wise, it's considered  
8 forbidden by God, *Haram*.

9 Q. Over the course of that night, did anyone approach you?

10 A. Around midnight or a bit after midnight I felt a woman or  
11 two women got near me. They were behind me. I could hear their  
12 breath and their voice. One of them tried to touch me or hold  
13 me from my back. I was not sure what she was trying to do, pull  
14 a hair or something from my back.

15 Q. Okay. Over the course of that night, did you hear anything  
16 that you thought might have been about you?

17 A. I heard men and women sing in English, "Happy Birthday  
18 Al-Jazeera."

19 Q. Was it your birthday?

20 A. No.

21 Q. Did you have any health problems that night?

22 A. In addition to severe exhaustion that was breaking down my  
23 whole body, I had issues in my stomach that escalated and got  
24 worse, aggravated.

25 Q. Explain what happened.

1 A. After that I started to feel burning in my stomach. Without  
2 my control, a black liquid started coming from my stomach to my  
3 mouth and I would spill it on the floor. It was a black liquid  
4 that was burning me severely, and it was quite painful. I felt  
5 as if my stomach wants to come out of my mouth altogether.

6 Q. Mr. Al-Ejaili, I'm going to show you the second tab, PTX 01.  
7 This is just for identification purposes.

8 THE COURT: Any objection to that?

9 MR. O'CONNOR: Are you offering it?

10 MR. AZMY: I was going to ask a couple of questions.

11 Q. Do you see -- without answering, do you see what is depicted  
12 in this photo?

13 A. Yes, I see the picture.

14 Q. What do you believe is depicted in this photo?

15 A. I believe that this is me because of that black liquid on  
16 the ground.

17 MR. AZMY: Now I would like to offer it, Your Honor,  
18 PTX 1.

19 MR. O'CONNOR: No objection, Your Honor.

20 THE COURT: All right. It's in.

21 (PLAINTIFF EXHIBIT Number 1 was admitted into  
22 evidence.)

23 Q. Can you describe why you believe that's you to the jury?

24 A. So this is me because that picture was taken from above,  
25 it's a naked person, I know also the hands are tied behind him

1 and he's wearing the red jumpsuit and the black bag on top of  
2 the head. And also, that black liquid that's on the ground,  
3 that is that black liquid that I vomited.

4 Q. Did you receive any medical attention that night?

5 A. Not at all. Despite the fact that I was in severe pain and  
6 I tried to ask for help, but they didn't.

7 Q. How do you feel now looking at a picture of yourself like  
8 this that's in the public view?

9 A. Very difficult.

10 Q. Can you explain why?

11 A. Because I recall all these moments vividly.

12 Q. Okay.

13 A. I was without any control. Pain, sadness, and anger.

14 Q. Did you encounter anyone in the morning? You said you were  
15 there overnight.

16 A. So in the morning after, the same person that brought me to  
17 that place came. He pulled the black bag from my head and then  
18 he opened the jumpsuit that I was wearing in my hands.

19 Q. Did he tell you to do anything?

20 A. In a command tone, he commanded me to clean the ground with  
21 the red jumpsuit.

22 Q. Did you do that?

23 A. Yes.

24 Q. Were you able to see the face and hear the voice of the man  
25 who commanded you?

1 A. Yes.

2 Q. Can you describe what he looked like?

3 A. It was a white man, he had a mustache, he wore glasses. His  
4 eyes protruded, were somewhat protruding.

5 Q. Did there ever come a time when you were able to place a  
6 name to this man's face?

7 A. Later on, after I was released from Abu Ghraib, after the  
8 pictures came to the public and then some American people were  
9 charged, he was among the pictures of those charged. And later  
10 on I got to know his name. His name is Graner.

11 Q. I want to show you an exhibit for identification purposes.  
12 It's the third tab, PTX 193. Do you recognize anyone depicted  
13 in this picture?

14 A. Yes, that person was on the right in the picture.

15 Q. Who is that person?

16 A. Graner.

17 MR. AZMY: We would like to offer it, Your Honor.

18 THE COURT: Any objection?

19 MR. O'CONNOR: No, Your Honor.

20 THE COURT: All right. It's in.

21 (PLAINTIFF EXHIBIT Number 193 was admitted into  
22 evidence.)

23 Q. Okay. Can you explain again for the jury, now that they see  
24 the picture, why you believe the man on the right is Graner?

25 A. The same characteristics. His height, the glasses that he

1 was wearing, the mustache, and he's always wearing this black  
2 thing on his head.

3 Q. Do you recognize anyone else in the photo?

4 A. Can you repeat? Did you recognize?

5 Q. Do you recognize anyone else from the photo?

6 A. Yes, the other person who is on the left in the picture, I  
7 remember seeing him more than once.

8 Q. How did you see him? In what situations did you see him?

9 A. When they would get the prisoners out of the units, the  
10 prison units, to interrogate them, more than once it was that  
11 person who would take me and drive me for the interrogation.

12 Q. How would you describe -- strike that.

13 After you were ordered to clean your own vomit with the  
14 uniform, were you taken someplace else?

15 A. Yes. They asked me to take the jumpsuit with me, and I  
16 remember we went upstairs, we walked two or three minutes, we  
17 went to one of the holding cells on the higher floor, we opened  
18 the door, he got me inside the holding unit, he closed the door,  
19 left me, and went.

20 Q. When he was transporting you during this walk, did he give  
21 you any fresh clothes?

22 A. No. I was naked the whole time. I was naked the whole time  
23 in the morning all the way until I was put in the holding unit.

24 Q. And this person who transported you is Graner. Correct?

25 A. Yes.

1 Q. And he's the person who ordered you to strip naked the night  
2 before?

3 A. Yes.

4 Q. Okay. And when you arrived to the cell, were you given any  
5 clothes at that time?

6 A. No, not at all.

7 Q. Did you ask Graner for clothes at that time?

8 A. No, I did not ask Graner for clothes. But the jail cell was  
9 quite cold. The cold in the jail cell was even more than  
10 outside the jail cell.

11 Q. Did you put your uniform on that you had taken with you?

12 A. No. Because it was covered -- it was dirty with the vomit.  
13 There was a water source inside the jail cell, so I tried to  
14 clean it. After I cleaned it, it was damp. It was difficult  
15 for me to wear it while it was very cold.

16 Q. Did you do anything to try and keep warm while you were in  
17 that cell?

18 A. There was no source of warmth or heat inside the jail cell,  
19 but the ceiling had some openings in it that would let seldom  
20 light rays inside the jail cell. So I was trying to stand in  
21 those areas lit by the light rays in order to warm up, and put  
22 all my body in that light area to warm up. But it was not  
23 really working at all.

24 Q. Did there come a time that you asked anyone else to bring  
25 you clothing?

1 A. Yes.

2 Q. Tell us what happened.

3 A. An American woman walked in front of the jail cells. I  
4 stopped her and asked her to bring me clothes because it was  
5 quite cold and I was shivering from the cold. She responded and  
6 she said, "Okay, I'll get you something."

7 She came back five or six minutes later.

8 Q. And did she bring you clothing?

9 A. Yes. But she brought me a feminine clothing, undergarments,  
10 undergarments.

11 Q. Need a minute?

12 A. No, okay.

13 Q. You didn't wear the undergarments, did you?

14 A. Of course not.

15 Q. Could you observe other prisoners from the cell?

16 A. Yes, there were about three or four in the higher floor that  
17 I was able to see. And if I got close to the door of the jail  
18 cell, on the lower floor there was two or three.

19 Q. Did you notice anything about them?

20 A. Most of them were naked, without clothing.

21 Q. The uniform that you washed, were you eventually able to  
22 wear it?

23 A. To a late hour in the night, the dampness of the jumpsuit  
24 was good enough and I wore it.

25 Q. Did there come a time eventually when you were taken out of

1 the cell?

2 A. Yes, I believe so. The day after or the day even after.

3 Q. Where were you taken?

4 A. So that man in the picture was on the left. He took me -- I  
5 believe he took me out from the door of the jail cell, he had  
6 the bag on top of my head. Before that, he asked me to strip  
7 naked. He kept the shackles -- my hands tied, and then he took  
8 me to a place that's also on the higher floor.

9 Q. Just one clarification. Did he ask you to take off the  
10 uniform?

11 A. It was like a military command.

12 Q. Okay. And what did you do when you arrived to this area?  
13 What was done to you? Were you restrained?

14 A. He took me to that place. I felt in that place more than  
15 one individual were present. So they tied my hand in a  
16 different manner. There was a long pipe in the hallway, so they  
17 tied my left hand and my right hand behind me against the pipe.

18 Q. Can you show the jury?

19 A. It was in this manner.

20 MR. AZMY: Let the record reflect his arms are  
21 outstretched in handcuffs on either side.

22 THE COURT: Just for the -- were they handcuffs or  
23 rope? How were your wrists attached to the pipe?

24 THE WITNESS: Metal handcuffs in my right hand and in  
25 my left hand, and tied to the pipe.

1 Q. Was that painful?

2 A. Of course. It was as if your shoulders are being pulled  
3 from their place. Especially that I was a bit raised and my  
4 legs were as if they're dangling. Not on the floor, but  
5 dangling to the floor.

6 Q. How were you -- and then what happened? Was this an  
7 interrogation?

8 A. Before they started to talk to me, I felt a hit to my head  
9 and other strikes in different places on my body. One of them  
10 spoke, "We're going to ask you questions. You have to answer  
11 all truth."

12 Q. How long did this interrogation last?

13 A. It was less than an hour before they took me back to the  
14 jail cell. One of them took off the bag from my head and he was  
15 looking at me in a sharp and angry manner. He started to ask me  
16 many questions about my profession and my work.

17 Q. What did that person look like, do you remember?

18 A. He was a white man, taller than I, he also had a goatee. He  
19 had a thin fine hair or maybe shaven hair. I don't remember  
20 exactly.

21 Q. What was he wearing?

22 A. He was wearing civilian safari clothing.

23 Q. Was he the one asking you questions during this  
24 interrogation?

25 A. Yes.

1 Q. Okay. Do you recall ever being questioned or interrogated  
2 by this man after that?

3 A. Yes, I remember twice or more than -- or more, it was the  
4 same person who interrogated me.

5 Q. And was he wearing these civilian khaki clothes when he  
6 interrogated you?

7 A. Yes.

8 Q. Can you describe how you felt during this interrogation?

9 A. Mostly the day of interrogation is a day of terror and fear  
10 for all the detainees, not just I. So in the morning of the day  
11 where an interrogation is going to happen, we would hear the  
12 screams of the detainees, various screams, and it was quite  
13 terrifying for us. And I would feel that something could happen  
14 to me during the interrogation, I could die.

15 Q. Uh-huh. Now I want to ask you -- you mentioned you thought  
16 you were interrogated more than once by the tall white man with  
17 the goatee. In those other interrogations, how were you  
18 treated?

19 A. We would get interrogated every two or three days. Some of  
20 it would be on the ground floor in the open area, some of it  
21 would be on the higher floor, and I remember once there was a  
22 room in the higher floor. I remember once I was naked, the  
23 black bag on top of my head and my hands tied, and I felt a hot  
24 liquid being poured on top of my body. Turned out it was  
25 probably tea. In other instances I remember cold water being

1 poured on top of my body.

2 But the more terrifying, added more than being naked  
3 with the black bag on top of my head, they would bring a dog to  
4 a near distance from me and I would feel the dog's breath near  
5 my face, while being unable to move from where I'm at, in fear  
6 from the dog. And I also could not see anything, so it was  
7 difficult for me to make any movement. I was frozen in my  
8 place.

9 Q. I want to ask specifically about the interrogations that you  
10 believe the tall white man with the goatee was in with you.

11 A. Okay.

12 Q. How were you treated in those interrogations?

13 A. Mostly in interrogations that have questions. Before the  
14 questions start, there's usually violence. Different strikes,  
15 for instance, accompanied by commands, "We're going to question  
16 you, answer truthfully and do not try to hide." I would say  
17 anything, anything.

18 Q. When you were not in interrogations, where were you held?

19 A. In the jail cell.

20 Q. How often would you say you were naked when you were at the  
21 hard site in Abu Ghraib?

22 A. So in the jail cell, I would say 80 percent of the time we  
23 were naked.

24 Q. Did you observe other detainees who were naked?

25 A. Yes. Yes, many of them were naked.

1 Q. Okay. Was there any other mistreatment in the cell blocks?

2 A. The punishment were ongoing or continuous for the slightest  
3 reasons. If they thought you spoke with another detainee, you  
4 get punished. They strip off your clothes, you and the other  
5 person you spoke to. Other times they handcuffed you with metal  
6 handcuffs to a bar. Some punishment was deprivation of food for  
7 a day.

8 Q. And how did it feel when you were in the cell block with  
9 other men who were naked, other detainees?

10 A. Nobody was with me in my jail cell, but they were in  
11 different other jail cells. It was quite a terrifying feeling.  
12 It's difficult to look at someone and talk with them while  
13 they're naked. It's humiliating. We would try to take into  
14 account the psychological state of others. We would try not to  
15 look at them while speaking.

16 Q. Approximately how long were you held at Abu Ghraib?

17 A. 40 days.

18 Q. Were you able to sleep well?

19 A. It was difficult.

20 Q. Why?

21 A. Always the lights were -- there were strong lights turned  
22 on, also loud music would be played during the night.

23 Q. During these 40-some-odd days at Abu Ghraib, did you have  
24 any contact with your family?

25 A. No, not at all.

1 Q. How did that feel?

2 A. It was of course terrifying experience that you do not know  
3 anything about your own family. Are they aware that you are  
4 present in that detention center? What are they thinking of me  
5 now? Especially that I had a wife and a young daughter, of  
6 course it was a painful experience.

7 Q. After being held over 40 days at Abu Ghraib, did you  
8 eventually leave?

9 A. Yes, I was released from that jail.

10 Q. Were you eventually reunited with your family?

11 A. Yes. Yes, I was reunited with my family.

12 Q. Can you describe the immediate reaction of your family when  
13 they saw you?

14 A. It was a mix of joy and sadness. They were happy that I was  
15 released from that jail that has such a bad reputation. They  
16 were worried because other people would remain there for many  
17 long years. Everybody was disturbed and sad for how bad it had  
18 gotten. I was thin, I was emaciated, I was pale, my head was  
19 shaven. I looked like a whole different person.

20 Q. Can you describe how you felt emotionally or psychologically  
21 after you returned, for the first weeks or months?

22 A. I had many psychological problems. I was always in a bad  
23 mood, my relationship with my wife was not well at all. I was  
24 trying to avoid people. I was not trying to meet with anyone  
25 who could come and visit me. I had lack of self-confidence,

1 lack of confidence in myself and in others, in addition to  
2 problems sleeping, problems eating. I had very low appetite for  
3 food.

4 Q. In the 20 years since, how would you say this experience has  
5 affected you?

6 A. Of course, prior to my detention at Abu Ghraib is completely  
7 different from the time after my detention. I was trying to  
8 remedy the issues, the things that got destroyed inside me,  
9 because I could not remain in that condition for prolonged  
10 period of time. But until this moment, being able to trust  
11 others, it remains very difficult.

12 And I also suffer from lack of self-confidence. Even  
13 my presence here is quite difficult.

14 Q. Do you sometimes have flashbacks or bad memories about your  
15 experience?

16 A. Yes, I get flashback. Whenever I encounter the topic of  
17 Abu Ghraib or it's mentioned in front of me, I get flashbacks of  
18 memories.

19 Q. Salah, why did you bring this case? What do you expect to  
20 get out of this case?

21 A. The injustice that I faced was immense, and I believe this  
22 court could remedy some of this injustice that I was exposed to.  
23 Just my presence in this place and speaking of the matter I  
24 believe will alleviate the impact. I believe it's a big chance  
25 to tell the people about -- it's a big opportunity to tell the

1 people about my story. I'm hoping it will alleviate the things  
2 that I suffer, my lack of confidence. I hope that gets  
3 remedied. Perhaps it's like a treatment, or a form of remedy.

4 Q. Thank you, Salah.

5 MR. AZMY: No further questions at this time.

6 THE COURT: Mr. O'Connor, cross-examination?

7 MR. O'CONNOR: May I proceed, Your Honor?

8 THE COURT: Yes, sir.

9 **CROSS-EXAMINATION BY COUNSEL FOR DEFENDANT**

10 BY MR. O'CONNOR:

11 Q. Mr. Al Ejaili, you testified you first reached the  
12 Abu Ghraib prison on November 8, 2003?

13 A. My evaluation, it was either the 8th or the 9th.

14 Q. But isn't it true that you were taken into custody by the  
15 United States Army five days earlier?

16 A. Correct.

17 Q. And that occurred in Diyala, Iraq?

18 A. Yes.

19 Q. And the people who took you into custody in Diyala were  
20 U.S. soldiers in U.S. military uniforms?

21 A. Correct.

22 Q. But the U.S. soldiers who took you into custody, they  
23 handcuffed you and pushed you into a car?

24 A. Yes, they handcuffed my hands and they put me in the car.

25 Q. And the car took you to the police station in Diyala?

1 A. Correct.

2 Q. While you were at the police station in Diyala, you were  
3 questioned by U.S. soldiers in military uniforms. Correct?

4 A. Correct.

5 Q. And there was one civilian present for that questioning, but  
6 he was an Iraqi interpreter. Is that right?

7 A. Correct.

8 Q. And you were not mistreated at the Diyala police station,  
9 were you?

10 A. No.

11 Q. And do you have any reason to believe CACI had any role with  
12 your being taken into custody or your treatment at the police  
13 station?

14 A. Ask your question again.

15 THE INTERPRETER: Interpreter will repeat.

16 A. No.

17 Q. And after one day at the Diyala police station, the  
18 U.S. Army moved you to an American military base in Diyala.  
19 Correct?

20 THE INTERPRETER: U.S. Army moved you to?

21 Q. Moved you to an American military base in Diyala.

22 A. Correct.

23 Q. And U.S. Army personnel put you in handcuffs for that  
24 transfer. Correct?

25 A. Correct.

1 Q. And for that transfer to the military base, were you  
2 transferred by -- were you driven there by a U.S. Army driver  
3 and another U.S. soldier who guarded you?

4 A. They were all Americans.

5 Q. They were all American soldiers. Correct?

6 A. Yes. They were wearing the military uniform.

7 Q. And the U.S. Army held you at the base in Diyala for two  
8 days. Correct?

9 A. Correct.

10 Q. You were placed in a cell all by yourself?

11 A. It was not a cell, it was a room.

12 Q. You were placed in a room all by yourself?

13 A. Yes.

14 Q. And while you were at the American military base, you were  
15 interrogated once?

16 A. It was personal questions.

17 Q. Okay. You were asked questions by a female U.S. soldier?

18 A. I don't remember the details, to be honest.

19 Q. Okay. During your two days at the American base in Diyala,  
20 you were given no food or drink, were you?

21 A. I don't remember exactly.

22 Q. Do you remember being deprived by -- being deprived of  
23 covers or bedding?

24 A. No, there was some sort of a bedding on the floor.

25 Q. You were deprived of a bed?

1 A. Yes.

2 Q. Okay. During your two days at the American base in Diyala,  
3 you didn't have any interaction with American civilians, did  
4 you?

5 A. No.

6 Q. After two days at the American base in Diyala, U.S. soldiers  
7 handcuffed you and placed you in a helicopter. Correct?

8 A. Correct.

9 Q. And that helicopter took you to Tikrit, another city in  
10 Iraq?

11 A. Yes.

12 Q. And when you arrived at Tikrit, you were taken to an  
13 interrogation room?

14 A. There was not much of an interrogation. It was more of  
15 getting personal information.

16 Q. You were taken to a room where you were asked questions to  
17 obtain personal information?

18 A. Yes.

19 Q. And that questioning was by a U.S. Army soldier?

20 A. Yes.

21 Q. And you were held in Tikrit for two days?

22 A. From what I remember, yes.

23 Q. After you were held in Tikrit, you were taken by military  
24 convoy to Baghdad and then to Abu Ghraib. Correct?

25 A. Correct.

1 Q. And military persons put a bag on your head for the ride  
2 from Tikrit to Abu Ghraib?

3 A. I don't remember if the bag was on my head or not. But we  
4 were tied all together, one to another.

5 Q. And you were tied all together by U.S. soldiers?

6 A. Yes.

7 Q. And when you arrived at Abu Ghraib, you were taken to a  
8 large open air tent. Is that right?

9 A. Yes.

10 Q. And you spent the night at that tent?

11 A. It was one or two nights. I don't particularly remember.

12 Q. And you weren't mistreated during the time you were staying  
13 in that tent, were you?

14 A. No.

15 Q. Okay. And then, when you were taken from the large tent,  
16 you were brought to the computer room you testified about.  
17 Right?

18 A. Correct.

19 Q. And when you were there, U.S. soldiers took information from  
20 you?

21 A. Correct.

22 Q. And they put a band on your wrist with your detainee number?

23 A. Correct.

24 Q. And in the computer room, one civilian looked at you but  
25 didn't mistreat you in any way. Correct?

1 A. I don't particularly remember that.

2 Q. Do you remember how anyone was treating you in the computer  
3 room?

4 A. No.

5 Q. From the room of the computers, you were taken to another  
6 room where you were questioned?

7 A. Yes.

8 Q. And there were three people in that room. Correct?

9 A. Yes.

10 Q. One was an Army interrogator?

11 A. Yes.

12 Q. One was an interpreter?

13 A. Yes.

14 Q. And one was a civilian who never spoke to you?

15 A. Correct.

16 Q. The military interrogator asked you questions about your  
17 background in that room?

18 A. Correct.

19 Q. And you weren't mistreated in that interrogation room with  
20 the soldier, interrogator, the translator, and the civilian.  
21 Right?

22 A. Yes.

23 Q. After this questioning, someone in a military uniform put  
24 you in a Humvee and drove you to the Abu Ghraib prison building.  
25 Correct?

1 A. They took me to a different building.

2 Q. Was it the building where eventually you were held in a  
3 cell?

4 A. Yes.

5 Q. And once you reached the building where you were held, you  
6 were met by a soldier in a military uniform and an interpreter.  
7 Correct?

8 A. I did not know whether they were in the military or not. I  
9 had the bag on top of my head.

10 Q. Do you remember having your deposition taken in this case in  
11 2013?

12 A. Yes. I remember a deposition, yes.

13 Q. Do you remember being asked about the two people who met you  
14 at the hard site and asked you questions?

15 A. I remember two people encountered me and asked me questions.  
16 One of them was screaming in my ear and the other one was  
17 interpreting the question in the other ear.

18 Q. Do you remember testifying there were two persons, one of  
19 them in military uniform and the other his interpreter?

20 A. I don't particularly remember. A long time has lapsed.

21 MR. O'CONNOR: Your Honor, may I read the witness  
22 testimony?

23 THE COURT: What page?

24 MR. O'CONNOR: I'm looking at 51:22.

25 THE COURT: I'm sorry, page 51?

1 MR. O'CONNOR: 22, to 52:10, Your Honor. I could go to  
2 17 to get his whole answer. I'm happy either way.

3 THE COURT: I'm sorry, line 16?

4 MR. O'CONNOR: 51:22 to 52, I could read to 10 or I  
5 could read to 17, either.

6 THE COURT: Start at line 20 on page 51.

7 MR. O'CONNOR: Very well.

8 Q. From Mr. Al Ejaili's 2013 deposition:

9 Question: "Okay. When you reached the building at  
10 Abu Ghraib, what happened next?"

11 Answer: "There was this bag on my head still. He  
12 handed me over to two persons. They pulled the bag off my head.  
13 There were two persons, one of them in military uniform and the  
14 other his interpreter. They asked me to get stripped naked. I  
15 asked -- I refused to obey. They said, you yourself will get  
16 naked or we will get you naked by ourselves" --

17 THE COURT: Wait, how is this inconsistent with what  
18 he's already testified to?

19 MR. O'CONNOR: I'll move on.

20 Q. Do you have any reason to believe that CACI personnel were  
21 involved in the two incidents where the two people were standing  
22 beside you and screaming in your ear?

23 A. No, I do not know anything regarding that.

24 Q. And then you were taken and your hands were tied behind your  
25 head by Corporal Charles Graner. Correct?

1 A. Correct.

2 Q. And you heard female soldiers -- or you had female soldiers  
3 around you and touching your body while you were tied up.

4 Correct?

5 A. I cannot tell for sure that they were soldiers. They were  
6 females and they were American.

7 Q. Thank you. Are you aware of any CACI employees being  
8 present while you were tied up with your hands behind your head  
9 overnight?

10 A. I did not know who they were.

11 Q. And the next day it was Charles Graner,  
12 Corporal Charles Graner, who directed you to clean up the vomit  
13 with your jumpsuit. Correct?

14 A. Yes.

15 Q. And when you were brought to your cell and you asked for  
16 clothes, it was a soldier, a female soldier, who brought you  
17 back female underwear. Correct?

18 A. I still cannot tell for sure. Perhaps they were wearing  
19 military uniforms, but there were no ranks showing or any names.  
20 At times we tried to differentiate between them, if they were in  
21 the military, to look for a name, if there's any rank, anything  
22 to tell.

23 Q. But you believe that the -- oh, I understand. Thank you.

24 And you were released by the U.S. Army on about  
25 December 20th, 2003?

1 A. Correct.

2 Q. And you went to the Al-Jazeera office in Baghdad?

3 A. Yes.

4 Q. And Al-Jazeera gave you two weeks off before you had to  
5 report back to work?

6 A. They gave me time off. I don't recall how many days.

7 Q. Are you aware that the United States has said under oath in  
8 this case that there's no records of you being formally  
9 interrogated?

10 MR. AZMY: Your Honor, objection. This is hearsay.

11 THE COURT: Well, not yet. He can say whether or not  
12 he's aware of it.

13 He can answer the question.

14 A. Can you please repeat the question?

15 Q. Sure. Are you aware that the United States has stated in  
16 sworn interrogatory responses in this case that they have no  
17 record of you ever being interrogated?

18 A. I'm not aware of that.

19 THE COURT: Now, ladies and gentlemen, that's an  
20 example of what I said to you earlier. So that was a statement,  
21 sort of, by the attorney. The witness said he doesn't know, so  
22 you have to absolutely erase that statement, the question, from  
23 your mind.

24 In other words, there's absolutely no evidence at this  
25 point that the U.S. government took any position as to whether

1 or not the plaintiff was interrogated.

2 MR. O'CONNOR: Understood, Your Honor.

3 Q. Are you aware that Army logbooks state that you were  
4 assigned to a Sergeant Beachner, and that no one else was  
5 permitted to speak to you?

6 A. No, I do not know.

7 THE COURT: Again, disregard that question as creating  
8 any issue of fact. All right? The witness doesn't know.

9 Q. And after you returned to work at Al-Jazeera, you went to  
10 Benghazi, Libya to cover the Libyan civil war?

11 A. That was after -- that was many years after.

12 Q. In 2011 or 2012?

13 A. Yes.

14 Q. And you also traveled to Sierra Leone to cover the aftermath  
15 of the civil war there?

16 A. Yes, I was assigned.

17 Q. After your release from Abu Ghraib prison in December of  
18 2003, did your bosses at Al-Jazeera ask you to prepare a report  
19 about your time in U.S. custody?

20 A. Yes.

21 Q. I'm going to ask you to, in your binder, turn to the last  
22 tab, which is Plaintiffs' Exhibit 224, which I'm marking for  
23 identification.

24 THE INTERPRETER: Plaintiff Exhibit 224?

25 MR. O'CONNOR: It's the very last one, Plaintiffs'

1 Exhibit 224.

2 THE COURT: I'm assume there's no objection since it's  
3 a plaintiffs' exhibit.

4 MR. AZMY: No, Your Honor.

5 THE COURT: All right. Do you want to move it in,  
6 then?

7 MR. O'CONNOR: I do want to move it in, Your Honor.

8 THE COURT: 224 is in Arabic, and then there's an  
9 English translation behind it. Is that correct?

10 MR. O'CONNOR: That's correct. That's the English  
11 translation that was provided with the document, yes,  
12 Your Honor.

13 (PLAINTIFF EXHIBIT Number 224 was admitted into  
14 evidence.)

15 MR. O'CONNOR: Can you put up Plaintiffs' Exhibit 224,  
16 and go to the English version, please.

17 Q. And at the time that you wrote this report, the events at  
18 Abu Ghraib were fresh in your memory?

19 A. Approximately.

20 Q. And the report -- the report you drafted first addresses you  
21 being taken into custody in Diyala. Fair?

22 A. Correct.

23 Q. And then your time at the police station?

24 A. Correct.

25 Q. And then your statement says you were transferred to

1 Al-Faris airport in Baqubah.

2 A. Correct.

3 Q. And your statement says, "The treatment of the American  
4 soldiers was very bad."

5 A. In comparison to what happened after, it was nothing.

6 Q. But you stated in your report that you were put in a dirty  
7 room without bedding for two days?

8 A. Of course I compared them to my bedroom in my house, and  
9 it's filthy.

10 Q. And in your report you talk about when you were taken to  
11 Abu Ghraib prison. Right?

12 A. Correct.

13 Q. And your report details what happened to you from the time  
14 you were taken to Abu Ghraib prison until the time you were  
15 released. Correct?

16 A. I mentioned, but not mentioning all the details.

17 Q. You only mentioned two civilians at all during your time at  
18 Abu Ghraib prison. Correct?

19 A. I don't remember.

20 Q. Okay. Well, you can take a look at it.

21 THE COURT: Well, direct him to the particular page,  
22 because it's a several-page document.

23 MR. O'CONNOR: Sure. I can only point to the English  
24 pages, Your Honor.

25 THE COURT: Go ahead.

1 Q. Okay. Go to -- stay on 6, where you are, and there's a  
2 reference to, "Meanwhile, one of the Americans in civilian  
3 clothing came."

4 And then let's go from there. Let's go to the bottom,  
5 where it says, "The American interrogator began asking  
6 questions, and the man in civilian clothing looked at my face."  
7 Those are the only two references that you made to civilians  
8 from your time at Abu Ghraib prison in the 2003 report you  
9 wrote. Right?

10 A. Correct.

11 THE COURT: Mr. O'Connor, just for the record, I don't  
12 think we had the witness identify the timeframe in which he  
13 actually prepared the report.

14 MR. O'CONNOR: I'll ask.

15 Q. How soon after you were released from Abu Ghraib prison did  
16 you prepare the report that's in front of you, Plaintiffs'  
17 Exhibit 224?

18 A. Maybe two months after, maybe a month and a half. I don't  
19 remember exactly.

20 Q. And so you've testified that you were abused by  
21 Corporal Charles Graner. Correct?

22 A. So Graner did not hit me, but he gave me these commands to  
23 strip naked, to clean the vomit that's on the ground, and he  
24 transported me to the jail cell.

25 Q. And you were abused by Staff Sergeant Frederick, another

1 soldier?

2 A. I don't remember that name.

3 Q. He was the guy on the left in the picture that you looked at  
4 when you were in direct examination.

5 A. Yes.

6 Q. In Plaintiffs' Exhibit 193.

7 MR. AZMY: I don't know if the witness can identify --  
8 Mr. O'Connor's --

9 THE COURT: Same. I don't know if you've laid a  
10 foundation for that.

11 Q. The gentleman on the left is another person who you  
12 testified abused you at Abu Ghraib prison. Correct?

13 MR. AZMY: I don't believe he testified that he abused  
14 him.

15 MR. O'CONNOR: Then he can answer that.

16 THE COURT: I'm going to permit you to ask the  
17 question.

18 Q. Did the gentleman on the left of this picture mistreat you  
19 at Abu Ghraib prison?

20 A. So this man would lead me from the jail cell and hand me to  
21 other individuals. This is what I remember.

22 Q. And when you were released from Abu Ghraib prison, you  
23 didn't make a claim against the United States for the treatment  
24 you received from U.S. soldiers, did you?

25 A. Correct.

1 Q. Have you ever made a claim against the United States for the  
2 treatment you received from U.S. soldiers at Abu Ghraib prison?

3 A. There was no laws in Iraq that would permit me to file such  
4 claim.

5 Q. You've studied the Abu Ghraib prison scandal, haven't you?

6 A. Yes.

7 Q. And you're aware that the United States is committed to  
8 paying legitimate claims of detainee abuse. Right?

9 A. I am not aware of that.

10 Q. And about four and a half years after your release, you  
11 filed this lawsuit. Correct?

12 A. Correct.

13 Q. And you sued -- you didn't sue Graner?

14 A. No.

15 Q. And you did not sue Frederick --

16 THE COURT: Wait, wait, wait. Is there an objection?

17 MR. AZMY: Objection, Your Honor. Are we asking for  
18 legal analysis here?

19 THE COURT: Well, more than that. I think it's time  
20 for the jury to get their afternoon break. Again, we're a  
21 little off schedule so I'm going to have us in recess until  
22 3:20. You-all talk and see how much longer this is going to go  
23 on.

24 (Jury out at 3:05 p.m.)

25 (Recess taken at 3:05 p.m.)

1 THE COURT: Mr. O'Connor, how much longer do you have  
2 with this?

3 MR. O'CONNOR: 10 minutes or less, Your Honor.

4 THE COURT: Good. That's fine.

5 And I'll ask the interpreter and the plaintiff, because  
6 I can hear you, you're going to need to be back in the corner  
7 for the rest of the trial. I'm sorry. Because it will be  
8 distracting for the jury and the attorneys.

9 THE INTERPRETER: No problem. Yes, Your Honor.

10 (Jury in at 3:24 p.m.)

11 THE COURT: We'll continue with the cross-examination.

12 BY MR. O'CONNOR:

13 Q. Mr. Al-Ejaili, you're a professional reporter?

14 A. Yes, of course. And that kind of experience grows year and  
15 year.

16 Q. And how many years of experience do you have as a  
17 professional reporter?

18 A. Since 2003 until now. 21 years.

19 Q. And you know as a reporter that it's very important, when  
20 you write a report, that it be complete and accurate?

21 A. Depending on the report.

22 Q. It's important not to leave out anything important. Right?

23 A. Not necessarily. There are reports that are abbreviated, or  
24 brief, or ones that go in depth and so forth.

25 Like our work at Al-Jazeera, there could be a report

1 that's only two minutes long or there could be a documentary  
2 that could last a whole hour.

3 Q. And when you were released from Abu Ghraib prison, you  
4 didn't go to a doctor or receive any medical treatment, did you?

5 A. No.

6 Q. Do you have any personal knowledge of involvement by  
7 employees of CACI in causing the injuries that you say you  
8 suffered?

9 A. Later on I received information about employees of CACI,  
10 about their presence in Abu Ghraib and the role in the torture  
11 that took place. As a journalist, I knew there were companies  
12 and contractors that were working as security in Abu Ghraib.

13 Q. And you're not aware of any specific instance of a CACI  
14 employee telling anyone to mistreat you, are you?

15 A. If there were known individuals that identified themselves,  
16 I would have known them. But the individuals were not  
17 identifying themselves.

18 Q. And so the answer is no, you can't point to a CACI employee  
19 giving anyone instructions about your treatment. Correct?

20 A. No.

21 MR. O'CONNOR: No further questions, Your Honor.

22 THE COURT: Redirect?

23 MR. AZMY: Briefly, Your Honor.

24 **REDIRECT EXAMINATION BY COUNSEL FOR THE PLAINTIFFS**

25 **BY MR. AZMY:**

1 Q. In response to Mr. O'Connor's questioning, you testified  
2 that you didn't know the actual names or the employers of any  
3 civilian interrogators at Abu Ghraib. Is that correct?

4 THE INTERPRETER: Of any civil or military?

5 MR. AZMY: No, I'll repeat it.

6 Q. In response to Mr. O'Connor's questions, you said you didn't  
7 know the names or the employers of civilian interrogators at  
8 Abu Ghraib. Is that correct?

9 MR. O'CONNOR: Your Honor, objection, leading.

10 THE COURT: I have to sustain the objection. Don't  
11 lead. There's no question pending.

12 Q. Okay. As far as you recall, can you -- were you  
13 interrogated by people wearing civilian clothes while at  
14 Abu Ghraib?

15 A. Yes.

16 Q. Okay. Can you describe the physical appearance of the  
17 civilian who interrogated you the first morning at Abu Ghraib?

18 A. He was a white man, he was taller than I, he had a goatee,  
19 he was big built. He was tall. He also had a mustache. His  
20 hair, I don't particularly remember. Perhaps it was shaven or  
21 he had some hair. He was wearing civilian clothing.

22 Q. And he interrogated you more than once?

23 A. Yes. That man, more than once.

24 Q. And what was your treatment like in those interrogations?

25 A. Okay. When they would expose the bag from my head, there

1 was no physical violence. But when they would put the bag on my  
2 head, there would be violence.

3 Q. Okay. Looking at PTX 193, the third tab, the person on the  
4 left, I believe you testified that he transported you to  
5 interrogations?

6 A. Yes.

7 Q. And you testified that he didn't abuse you on the way to  
8 those interrogations?

9 THE INTERPRETER: Did or didn't?

10 MR. AZMY: Did not.

11 A. I don't remember that he abused me.

12 Q. Okay. So when were you abused?

13 A. When I reached the second destination, the place that had  
14 one individual in that place.

15 Q. And were those interrogations?

16 A. Yes, they were interrogations.

17 MR. AZMY: No further questions.

18 MR. O'CONNOR: Can I recross, Your Honor?

19 THE COURT: Yes, recross is permitted, but it's to the  
20 scope only of what came through on redirect.

21 MR. O'CONNOR: Very briefly, Your Honor.

22 **RECCROSS-EXAMINATION BY COUNSEL FOR DEFENDANT**

23 **BY MR. O'CONNOR:**

24 Q. Mr. Al-Ejaili, you have the statement in front of you that  
25 you wrote right after you were -- within a month or two after

1 you were released from Abu Ghraib prison. Correct?

2 A. I believe so, yes.

3 Q. And in your statement you said, "There were punishments for  
4 the most trivial reasons, and there was an interrogation every  
5 two or three days that was conducted in a place outside the cell  
6 by interrogators. I did not see their faces in most cases  
7 because of the bag placed on my head."

8 A. Correct.

9 Q. And in your report, you didn't say anything about a  
10 description or the identity of anyone who interrogated you once  
11 you had been put in the cell at Abu Ghraib prison. Correct?

12 A. Sir, this report is for a different purpose. I was not  
13 required or request to write a description of the people, what  
14 they were wearing.

15 Q. And you didn't write a description of the people who  
16 interrogated you, did you?

17 A. It was a general description. We would describe all the  
18 people that were present and they were doing an interrogation in  
19 the prison of Abu Ghraib, they were Americans.

20 MR. O'CONNOR: No further questions.

21 THE COURT: Thank you. And I'm going to ask -- I  
22 mentioned, and I don't know if the jury could hear, it's a  
23 little difficult with the interpreter interpreting because  
24 there's a sound. I don't know if you could hear it earlier  
25 during the opening statements. So I'm going to ask the

1 plaintiff and his interpreter to sit in the back corner of the  
2 courtroom so he can hear the trial translated, but I think we  
3 will not be hearing the background noise.

4 All right, sir, you may go back.

5 Your next witness?

6 MR. FARIDI: Your Honor, at this time plaintiffs would  
7 like to read the government's response to an interrogatory  
8 served by CACI that the parties have agreed is admissible.

9 THE COURT: All right. So in the pretrial discovery  
10 process, one of the techniques that is used is something called  
11 written interrogatories. An interrogatory is a question. And  
12 so what happens is, the lawyers will file a written question,  
13 and then the party to whom it's addressed files an answer to  
14 that. And that's what's going to come in right now. All right?

15 Is there any objection to proceeding this way?

16 MR. O'CONNOR: I'm not sure exactly what he's going to  
17 read. As long as he reads the complete response, I have no  
18 objection.

19 THE COURT: All right. So slowly read the full  
20 question and then the full response.

21 Is there any objection from the United States?

22 MR. ELLIOTT: Your Honor, this exhibit appears to have  
23 been sealed at the time. There is a public version. I'm not  
24 sure what he intends to read, but --

25 THE COURT: Very quickly take a look to make sure

1 there's no problem with it.

2 MR. O'CONNOR: Your Honor, Defendant's Exhibit 2 is the  
3 public version that the United States made five years ago so it  
4 could be publicly filed. It's been publicly filed.

5 THE COURT: Not a problem. All right.

6 Are we also moving this in as an exhibit?

7 MR. FARIDI: Not at this juncture, Your Honor.

8 MR. O'CONNOR: It's in. Exhibit 2 is in.

9 THE COURT: You need to move -- every exhibit has to  
10 get moved in, whether it's been done in some previous  
11 proceeding, all right, so that we know for this trial what the  
12 record is.

13 So if there's no objection, Defense Exhibit 2 is in  
14 evidence. It's an interrogatory response.

15 MR. FARIDI: Your Honor, at this time I would like to  
16 read only the portion of the interrogatory response that relates  
17 to Mr. Al-Ejaili.

18 THE COURT: All right. Go ahead.

19 MR. FARIDI: So the interrogatory asks the  
20 United States government to identify any interrogator who  
21 interrogated any plaintiff at Abu Ghraib prison.

22 And the government's response as it relates to  
23 Mr. Al-Ejaili is as follows: "The Department of Defense has not  
24 located any record that would formally document any intelligence  
25 interrogation of plaintiff Salah Hasan Nusaif Jasim Al-Ejaili,

1 Plaintiff Ejaili, such as an interrogation plan, an  
2 interrogation report, or interrogator notes. However, as  
3 described below in response to Interrogatory No. 2, the  
4 Department of Defense has located and produced other information  
5 suggesting that Plaintiff Al-Ejaili may have been interrogated  
6 by an Army interrogator and a CACI interrogator during his  
7 detention at Abu Ghraib."

8 Your Honor, at this time plaintiffs call Torin Nelson.

9 THE COURT: All right.

10 MR. FARIDI: While the witness is approaching,  
11 Your Honor, may we hand up binders?

12 THE COURT: Yes.

13 (Oath administered by courtroom deputy clerk.)

14 MR. FARIDI: May I proceed, Your Honor?

15 THE COURT: Yes, sir.

16 **(TORIN NELSON, having been duly sworn, testified as follows:)**

17 **EXAMINATION BY COUNSEL FOR PLAINTIFFS**

18 **BY MR. FARIDI:**

19 Q. Good afternoon, sir.

20 A. Hello.

21 Q. Please introduce yourself to the ladies and gentlemen of the  
22 jury.

23 A. My name is Torin Nelson.

24 Q. Mr. Nelson, have you heard of CACI or CACI, sir?

25 A. I have.

1 Q. And how have you heard of CACI?

2 A. I first came to know CACI, or CACI International, in late  
3 2003.

4 Q. And were you ever employed by them?

5 A. Yes, I was.

6 Q. And what type of work did you do for CACI, sir?

7 A. I was hired by them as an interrogator.

8 Q. And prior to joining CACI, did you work in our country's  
9 military?

10 A. Yes. I first joined the military in late 1992, and had  
11 served prior to 2003 for about 11 years.

12 Q. And which division of the military did you join, sir, in  
13 1992?

14 A. When I enlisted in 1992 in the U.S. Army, I became an  
15 interrogator, 97 Echo series. And I was a 97 Echo interrogator  
16 the whole time that I was a soldier.

17 Q. And you said that you were with the military for about  
18 11 years?

19 A. Yes, up until that point.

20 Q. And were the entire 11 years with the U.S. Army?

21 A. Yes.

22 Q. Did you ever work with the Utah National Guard?

23 A. Yes, I joined the Utah National Guard in early 1999,  
24 January 1999, and served from 1999 to about 2004.

25 Q. And I think you talked about it earlier, but during your

1 work with the military, did you gain experience as an  
2 interrogator?

3 A. Yes, I was trained as an interrogator. I went through  
4 two years of training in 1992, in three stages.

5 Q. Can you describe that training? Let me break it up.

6 Did you receive any formal training in interrogations?

7 A. Yes. The first stage of my training was basic training in  
8 Fort Sill, Oklahoma; the second stage was at the  
9 Defense Language Institute in Monterrey, California. That was  
10 for Russian and cultural studies.

11 And then once those were completed, I was sent to Fort  
12 Huachuca, Arizona for the 97 Echo interrogator school. That was  
13 a nine-week course. I went through it over a lengthier period  
14 of time than that. I actually went through it twice. In late  
15 August, early September, I graduated and went to my first duty  
16 station as an interrogator.

17 Q. And can you approximate for the jury, sir, approximately how  
18 many years of training have you had as an interrogator?

19 A. Well, formal training was two years, by U.S. military  
20 standards, but my training continued on after that doing the  
21 work in real life at my various duty stations. So by 2003, I  
22 had 11 years experience as an interrogator.

23 Q. And what does 97 Echo mean, for those who do not understand  
24 military vernacular?

25 A. Sure. Every military occupational specialty, or MOS in the

1 U.S. Army, has an alphanumeric designator to make sure that  
2 everybody understands exactly what our roles and functions are,  
3 what schools that they go through, all the budgeting  
4 requirements, billets that need to filled and such. So an  
5 11 Bravo is an infantry soldier, 88 Mike is a truck driver.  
6 Every little job that you could do has a specific designator.

7 In the 1990s, it was -- a 97 Echo was an interrogator,  
8 specifically billeted as an interrogator. That has since  
9 evolved to 35 Mike, which is a human intelligence collector,  
10 which involves interrogation, debriefing, and source operations  
11 for the military.

12 Q. Are you currently employed, sir?

13 A. I am.

14 Q. And can you tell the jury who you work for?

15 A. I work for the U.S. Army as a client. I am a federal  
16 contractor with a company called Jacobs Engineering at  
17 Fort Huachuca, Arizona, as a senior instructor at the  
18 U.S. Army's Intelligence School of Excellence; specifically at  
19 the human intelligence course, the interrogation, debriefing,  
20 and source operations.

21 Q. I want to focus your attention on your work for CACI. At  
22 the time you were hired by CACI, did you know, having been in  
23 the interrogation field beforehand, whether CACI provided  
24 interrogation services?

25 A. Prior to that, no.

1 Q. And let's talk about your hiring process for CACI. Were you  
2 interviewed by CACI?

3 A. Yes. I received two phone calls. I don't remember if they  
4 were on the same day or not. This would have been probably late  
5 August, early September of 2003, after a friend of mine told me  
6 that he had recommended me for the position.

7 First one was from a recruiter, I believe her name was  
8 Michelle. We spoke for just about five or 10 minutes. And then  
9 she said that I would receive another call from a  
10 Ms. Amy Jensen, who I believe was the program manager at the  
11 time. And that call lasted for about 25 or 30 minutes.

12 Q. And who was Amy Jensen a program manager for?

13 A. She identified herself as a program manager for a contract  
14 for CACI International over in Iraq.

15 Q. What did you and Ms. Jensen discuss in that 25-minute phone  
16 call?

17 A. Well, we discussed the job opportunity that was being  
18 offered to me. So they had received my résumé by then, they had  
19 looked it over, they had liked it. The first five minutes was  
20 them asking me -- or them -- what I mean, them, Ms. Jensen,  
21 asking me some questions about my experience, my background,  
22 that sort of thing. That was about the first five minutes.

23 The rest of the phone call, 20, 25 minutes of that was  
24 her talking about the program, the benefits for working for  
25 CACI, retirement, those sorts of things, a little bit about

1 where we were going to be working and such like that. I  
2 specifically remember her mentioning we were going to be working  
3 in the Green Zone, which means basically the -- what was  
4 considered safe zones in Iraq at that time. And that was the  
5 majority of the call, yes.

6 Q. Did you meet with anyone from CACI's management before you  
7 were hired?

8 A. No, not prior to hiring.

9 Q. So did you go to the Green Zone in Iraq?

10 A. Well, we landed in Baghdad International Airport, BIAP, and  
11 we did move to Camp Victory, which is where CACIville was  
12 located. That's what we referred to it as. That's basically  
13 where the headquarters operations for CACI operations in Iraq  
14 was located, at Camp Victory. But my assignment was at the  
15 Abu Ghraib prison, which was outside the Green Zone.

16 Q. Let's focus on the dates. When did you arrive in Iraq?

17 A. I would say probably around the third week of November,  
18 2003.

19 Q. And you spoke about CACIville. Tell the members of the jury  
20 what CACIville is.

21 A. CACIville was a small sub-compound on the larger base of  
22 Camp Victory which was adjacent to the Baghdad International  
23 Airport, just on the west side of Baghdad, Iraq. This is where  
24 most of the core headquarters were for occupation forces in Iraq  
25 from 2003 onwards. Very large camp.

1           CACIville itself was just a couple of small buildings  
2 there, where I guess most of the coordination for activities in  
3 various locations around Iraq were conducted.

4 Q. When you went over to Iraq from the United States, did you  
5 go over with anyone from CACI?

6 A. Yes. One person in particular, Scott Northrop, he and I got  
7 to know each other -- I believe we met when we were at the CRC,  
8 which is the Continental United States Redeployment Center, at  
9 Fort Bliss, Texas. That's necessary for everybody to go through  
10 prior to any deployments overseas. We met each other there and  
11 we pretty much traveled over into Kuwait and then Iraq together.

12           And that was about the only other person that I  
13 remember from CACI that I was actually traveling with.

14 Q. And who brought you over from CACIville over to Abu Ghraib?

15 A. I don't remember the gentleman's name. It was one  
16 individual, I had just met him the one time there at CACIville.  
17 We got into, I think it was a Land Rover, and he drove me one  
18 morning, just after about a day or two after I arrived, from  
19 CACIville out to the Abu Ghraib prison, which was probably about  
20 a 15, 20-minute drive.

21 Q. And who did this individual who transported you from  
22 CACIville over to Abu Ghraib work for?

23 A. He worked for CACI.

24 Q. And when you got to Abu Ghraib, did you interact with any  
25 CACI personnel?

1 A. Oh, yes.

2 Q. Give us some names.

3 A. Well, the first person that I reported into was  
4 Dan Porvaznik, who was a site lead or a site manager there at  
5 Abu Ghraib prison. And then once I had a chance, I started to  
6 get to know many of the individuals that I was working with.

7 Q. We'll get to those individuals in a moment. But did you  
8 gain an understanding, sir, as to who Mr. Porvaznik reported to?

9 A. I'm sorry?

10 Q. Did you gain an understanding as to who Mr. Porvaznik  
11 reported up to?

12 A. Oh, yeah, actually, right from the very beginning. Once he  
13 identified himself as the site lead or site manager, we got  
14 talking about conditions on the ground, that sort of thing.  
15 Because I wanted to know about the mission and what type of  
16 environment we were going to be working in and such like that.

17 And he had already stated that he was in a lot of  
18 contact with Amy Jensen, who is the program manager, via email,  
19 mainly. I don't know about phone calls, but email. Because  
20 there was one particular moment where he shared with me a list  
21 of complaints that they had made, both operational and  
22 administrative, to Ms. Jensen's -- brought it to her attention.  
23 And he said that. That was probably within probably the first  
24 week of me being there.

25 Q. And I'm not sure if this is clear on the record. But who

1 did Mr. Porvaznik work for?

2 A. For CACI International.

3 Q. So let's talk about the other individuals who you interacted  
4 with at Abu Ghraib who worked for CACI. Did you know anyone  
5 from CACI from your prior life in the interrogation world?

6 A. No. No, there was nobody there on the ground with CACI that  
7 I had ever met in my work for the United States Army or the  
8 human intelligence corps. Which is a pretty small community.  
9 There were only about 1,200 of us interrogators worldwide  
10 between the 1990s and 2000s, so it was pretty regular to run in  
11 to the same faces, and you get to know them over the course of  
12 their careers.

13 So, yeah, I hadn't recognized anybody. There was one  
14 person right at the very end, just about the day that I was  
15 leaving, that came in that I had actually done a deployment with  
16 before. That was the only person.

17 Q. We're going to talk about the very end in a moment. But can  
18 you tell the jury exactly when that moment was?

19 A. As far as running...

20 Q. When you stopped working for CACI.

21 A. Oh, that would have been, I believe, January 25th, I  
22 believe, of 2004.

23 Q. Were you concerned at all that none of the CACI  
24 interrogators except for this one individual who you ran into  
25 later, in late January of 2004, you had had no other interaction

1 with in your prior interrogation world?

2 A. Oh, yeah. Whenever I go on a deployment, especially after  
3 having done it for quite a few years, if there are people that  
4 I'm very unfamiliar with, I spend more time getting to know  
5 them. I need to know their styles, I need to know their work  
6 patterns, I need to know their backgrounds to see if we're going  
7 to be able to work together or not be able to work together  
8 well. And just what kind of level of confidence that I can have  
9 in the team that I'm working on.

10 Q. Did you get to interact with the CACI interrogators who were  
11 with you at Abu Ghraib?

12 A. Yes, on a daily basis. We were working both in the JIDC,  
13 and then we were also pretty much housed together on a different  
14 section of the entire Abu Ghraib compound.

15 Q. And from those interactions, did you gain an understanding  
16 as to their backgrounds?

17 A. Yeah. And that was more worrisome.

18 Q. Why?

19 A. Because there didn't seem to be a lot of U.S. military,  
20 U.S. Army interrogation school experience that I noticed. It  
21 was a couple of individuals that I can remember, their  
22 backgrounds were, like, a little bit of law enforcement, which  
23 is -- law enforcement interrogations are very, very different  
24 than military intelligence interrogations, both in size, scope,  
25 length, duration, and purpose. One was, I believe, a small town

1 sheriff from Georgia or Alabama. He was a very nice guy, but  
2 wasn't very experienced in military intelligence interrogations.

3 And I believe Mr. Porvaznik's background was a Marine,  
4 but I can't remember if it was Marine intelligence or actual  
5 interrogation methodologies.

6 Q. I want to talk about the treatment of detainees at  
7 Abu Ghraib. And before we get started, I want to ask you one  
8 question. Did the military ever authorize you, as a CACI  
9 interrogator, to direct the military police to abuse detainees?

10 A. No.

11 Q. Let's talk about some of your CACI colleagues. Do you know  
12 the name Tim Dugan?

13 A. Yes.

14 Q. Who is he?

15 A. Tim Dugan started working there at the Abu Ghraib prison  
16 prior to me. I don't know exactly when. I was introduced to  
17 him on one of my first days as I was being shown around the  
18 JIDC, the Joint Interrogation Debriefing Center, JIDC, which is  
19 primarily where we worked out of. As far as I had known, he was  
20 introduced to me as an analyst on one of the teams, not as an  
21 interrogator, and that's what I figured he was.

22 And then there were other individuals I was introduced  
23 to as well on that same day. But Tim kind of stood out.

24 Q. What's the difference between an analyst and an  
25 interrogator?

1 A. Well, one, the training and the schooling, their  
2 expectations. While they can sit in on interrogations, they can  
3 make notes and such like that, they can offer support and  
4 assistance to the human intelligence collector - in this case,  
5 the interrogator - they are not actually supposed to be  
6 interacting directly with the detainees, EPWs, or the sources  
7 that we use.

8 Q. Did you ever live with Mr. Dugan?

9 A. Yes. Not at first. This would have been later on, probably  
10 around late December, early January, when we were moved from the  
11 large housing area, the big open bay living conditions that we  
12 were in, to more individual cells. And Mr. Dugan was my  
13 cellmate for a period of time until I got my own individual  
14 cell.

15 Q. From your interactions with him, did you gain an  
16 understanding as to his background before he began to work for  
17 CACI?

18 A. Not so much as background, but more of what he was doing  
19 there. Definitely he was -- by that time, I realized that he  
20 was actually conducting interrogations.

21 Q. Did you ever hear him talk about treatment of detainees?

22 MR. O'CONNOR: Objection, hearsay.

23 MR. FARIDI: Party opponent admission.

24 MR. O'CONNOR: He is not a party opponent, Your Honor.

25 He is a low level employee.

1 THE COURT: Sustained. Let's move on.

2 Q. Based on your interactions with him, did you ever learn  
3 about his treatment of detainees?

4 MR. O'CONNOR: Same objection, Your Honor.

5 THE COURT: Sustained.

6 Q. At Abu Ghraib, sir, did you ever interrogate anyone who had  
7 been previously interrogated by Mr. Dugan?

8 MR. O'CONNOR: Objection, hearsay.

9 THE COURT: Not yet. All right? Overruled.

10 A. Yes.

11 Q. And how is it, sir, that you came to interrogate that  
12 individual?

13 A. The individual in question was an older fellow who was  
14 requested by the medical staff to be given to me because of his  
15 medical condition.

16 MR. O'CONNOR: Your Honor, this is all hearsay. He's  
17 testifying about what other people told him for the truth --

18 THE COURT: Well, no, he's just explaining why he had  
19 that particular person. So I'm going to overrule that  
20 objection.

21 Q. Let's focus on your first meeting with that particular  
22 detainee. Can you describe the detainee's physical condition  
23 when he was transferred over to you?

24 A. Yes. Our first meeting was with myself, my analyst, and the  
25 interpreter, as well as the source. One of the very first

1 things that he did after the introductions, and he got to know  
2 that I was a different type of individual that was talking with  
3 him, was he rolled up his left sleeve and showed his forearm,  
4 which had a bruise. It was a fairly older bruise, it was yellow  
5 and brown, but very noticeable from about his wrist to his  
6 elbow, that went around the entire forearm, very intense. And  
7 also a bump on his forehead, over his left eye. It was probably  
8 about the size of -- I would say about a half-dollar size. And  
9 he explained --

10 MR. O'CONNOR: Objection.

11 THE COURT: Now, that is hearsay, so I'll sustain that  
12 objection.

13 MR. FARIDI: That's fine, Your Honor.

14 THE COURT: Sir, you can testify to what you saw.

15 THE WITNESS: Yes.

16 THE COURT: All right. But what somebody else said to  
17 you, you really can't testify to. That's hearsay.

18 Q. At some point did you report what you had observed to the  
19 Criminal Investigation Division of the U.S. Army?

20 A. Yes.

21 Q. And before reporting it to the CID --

22 MR. FARIDI: And I'm mindful of the judge's instruction  
23 on this. I'm not going to ask him to --

24 Q. Please don't tell me what you heard from others. This is my  
25 question. My question simply is, before reporting to the CID

1 this concern that you had, did you investigate how the detainee  
2 sustained those injuries, yes or no?

3 A. Yes.

4 Q. Did you review the interrogation log for that detainee?

5 A. Yes. That's standard procedure.

6 Q. Was the incident that gave you concern, that prompted you to  
7 report the concern to the CID, logged in the interrogation log?

8 A. No.

9 Q. Let's talk about Steve Stefanowicz. Do you know that name?

10 A. Yes.

11 Q. How do you know that name?

12 A. He was quite well-known on the compound. Right from the  
13 very first day, he was one of the first people that introduced  
14 himself to me. Very nice individual, tall, went by the name  
15 Big Steve. We worked different shifts, so I didn't get to work  
16 with him that much. He worked night shift, I worked day shift,  
17 mainly.

18 But in passing we would talk, mostly about trivial  
19 things. Like I said, he was a very nice, amiable person, but he  
20 worked on a different team than I did, he worked different  
21 detainees than I did.

22 Q. Did he have a goatee?

23 A. Yes. Dark hair, fit, good smile.

24 Q. Did you have any conversations with him about  
25 interrogations, yes or no?

1 A. Yes. The very first day, or first week, I would say, in the  
2 JIDC, we were talking. There was kind of a small group of us,  
3 so he wasn't really directly talking to me about it, but I was  
4 just there at the conversation. And he mentioned how he had  
5 gotten --

6 THE COURT: Wait.

7 MR. FARIDI: Your Honor, I think we're going to have to  
8 approach on this. I'm sorry.

9 THE COURT: Come on up.

10 (BENCH CONFERENCE ON THE RECORD.)

11 MR. FARIDI: My apologies, Your Honor. But I'm going  
12 to do this throughout the examination, and I want to make sure  
13 that I'm mindful of instructions on this.

14 Our view is that the statements made by other CACI  
15 employees who were at Abu Ghraib would constitute party opponent  
16 admissions under rules of evidence (d)(1)(2). The only  
17 foundation we have to establish is that those individuals worked  
18 for CACI, and then those statements are attributed to CACI, the  
19 defendant that is present here.

20 So the statements of Mr. Stefanowicz and Mr. Dugan or  
21 Mr. Daniel Johnson, who we're going to talk about in a moment,  
22 lead to this individual. Those statements are admissible  
23 against a party as party opponent admissions.

24 MR. O'CONNOR: These are ordinary employees,  
25 Your Honor. Party admission is not every single employee of a

1 multinational corporation. By the rule, it's people who are in  
2 a position of authority.

3 THE COURT: Well, he can relate what he reported.  
4 That's his statement. All right? But not what he learned from  
5 other people. So that's the line that has to be drawn.

6 MR. FARIDI: Thank you, Your Honor.

7 MR. O'CONNOR: Your Honor, if he's going to say, "I  
8 reported that Steve Stefanowicz told me X" --

9 THE COURT: No, not that "he told me that." I don't  
10 know how the report is done, but if he's saying, "I'm reporting  
11 abuse of the first guy, I'm reporting having seen these injuries  
12 inflicted by Dugan," it will be okay. So I don't know how he  
13 reports it.

14 MR. FARIDI: He reports - I'm getting to it - to CID.

15 One other very quick thing. I think the interpretation  
16 that's offered by Mr. O'Connor to the Federal Rules of Evidence,  
17 I don't think it's consistent with federal law. 801(d)(2) does  
18 not require the employee of the company to have speaking  
19 authority for the company. That's the minority.

20 In the rules of evidence, Your Honor, as long as the  
21 statements are made within the scope of the employment, they are  
22 admissible against the corporate enterprise.

23 THE COURT: That's part of the problem, too, is they're  
24 acting outside the scope of the contract and they're not  
25 protected within the scope of employment. So I'm going to keep

1 the interpretation. I think it's proper. In a large  
2 corporation, if somebody doesn't have some type of managerial  
3 status, it can't -- I mean, it might be that the site person  
4 might be in a different category --

5 MR. FARIDI: And Mr. Stefanowicz had -- he may not have  
6 had the title of a manager, but he had a leadership role.

7 THE COURT: No, not enough. Not for the corporation  
8 purpose.

9 MR. FARIDI: Thank you, Your Honor.

10 MR. O'CONNOR: Thank you, Your Honor.

11 (END BENCH CONFERENCE.)

12 BY MR. FARIDI:

13 Q. Mr. Nelson, we were talking about Steve Stefanowicz.

14 A. Yes.

15 Q. Did you have any concerns about his treatment of detainees?

16 A. For Big Steve, a little bit, but not much.

17 Q. Okay. Let's move on to Daniel Johnson. Do you know him?

18 A. Yeah, Dan Johnson, he was known as DJ on the compound.

19 Q. How old was he when you met him at Abu Ghraib?

20 A. He was young. He was probably early twenties, I would say,  
21 anywhere from 22 to 23.

22 Q. Did you have any interactions with him that concerned you?

23 A. Yeah.

24 Q. Go ahead, please.

25 A. Not so much just based upon his age or lack of experience.

1 I mean, two years experience prior to that, when you factor in  
2 the amount of training that we have to go through, two years is  
3 very little, if that's your experience.

4 But it was not so much -- he had a good attitude. He  
5 was exuberant and wanting to make a difference, wanting to do a  
6 good job, but what concerned me was how he was going about doing  
7 it. He was using what we call the fear of harsh approach, a  
8 little bit excessively, in my opinion.

9 Q. Well, let's get into the specifics. Were you ever in an  
10 interrogation that was conducted in a room next to his?

11 A. Yes. There were a couple of different sites on the compound  
12 where we were allowed to do interrogations. There was a large  
13 wooden white painted shack that was segregated into about four  
14 different interrogation booths, if I remember correctly, four or  
15 six, which we would use as an alternate interrogation site.

16 And I know specifically that it was DJ who was in the  
17 next room to me. I had seen him outside and heard his voice  
18 clearly while I was conducting my interrogation. And I could  
19 hear the yelling, the walls were being beaten, banging was going  
20 on, furniture that we had in the booth was most likely being  
21 thrown around, that sort of thing.

22 Q. Did that concern you?

23 A. Yes. Again, there was one instance of a fear of harsh  
24 technique being used, and it was disruptive. It was obviously  
25 disruptive to my interrogation. My source was very distraught

1 by that. It affected the ability for me to be able to conduct  
2 my interrogation, but it also was just another sign of the  
3 difficulty that I saw of working there at that location when  
4 these harsh techniques were being used, on a fairly frequent  
5 basis, that I was learning.

6 Q. And when you say "harsh techniques," are those interrogation  
7 techniques?

8 A. Yes. What would euphemistically be referred to as softening  
9 of detainees.

10 Q. So that's one instance you spoke about. Let's talk about  
11 another one. Without revealing the names of the detainees, can  
12 you tell the jury whether you and Mr. Johnson were assigned to  
13 work on any detainees who were associated with one another?

14 A. Yes. This would have been later on, probably in January.  
15 There was a small group of detainees that came in that were  
16 associated with each other. I received one of those,  
17 Specialist Schlegel received another one, and Dan Johnson, DJ,  
18 received a third one.

19 Q. Can you describe your working relationship with DJ,  
20 Mr. Johnson from CACI, with respect to those three associated  
21 detainees?

22 A. Well, at that time there wasn't really any working  
23 relationship. I tried to work the two different cases, the two  
24 different detainees, both myself and DJ, so we could coordinate,  
25 we could cooperate, we could see who was getting what from each

1 of their own sources and such like that, so we could be better  
2 at our jobs of finding out what was going on with their group  
3 and that kind of thing.

4 Specialist Schlegel was very cooperative with me. We  
5 met frequently, traded notes, that sort of thing. Because DJ  
6 was not forthcoming, he did not want to talk to me about any of  
7 that sort of stuff, I felt it necessary to actually go through  
8 the files of that detainee that DJ was producing. Those were  
9 produced reports, published intel and operational in-house  
10 reports that I had access to, and a need-to-know basis because  
11 they were an associated detainee to my own.

12 Q. Did you see anything that concerned you?

13 A. Yes. Very concerning.

14 Q. Tell the jury.

15 A. Well, first of all, overall, in my opinion, the reports were  
16 very unprofessional. These were the published reports that go  
17 into the intelligence community.

18 But the thing that really worried me was the treatment  
19 that was being described, and the disposition of the detainee  
20 himself. When the words "detainee is crying like a little baby  
21 in the corner" or "detainee is broken into a thousand pieces  
22 like humpty-dumpty" are being used in official reports, that was  
23 concerning to me as far as the disposition of the detainee.

24 The fact that the detainee that was associated with  
25 mine was recommended for isolation, which we refer to as either

1 segregation or separation, depending on if we do it for  
2 interrogation techniques or for just keeping them segregated  
3 from general population, that this detainee was being  
4 recommended just because the interrogator, DJ, did not believe  
5 the detainee's story. And so that would be used as a technique  
6 to soften up the detainee so he would be more cooperative in the  
7 future. This was considered one of the harsher techniques.

8 Q. I'm trying to streamline my examination. Okay? You spoke  
9 about the concerns that you raised with the CID. Do you recall  
10 that?

11 A. Yes.

12 Q. How many times did you speak or interact with the CID,  
13 Criminal Investigation Division, of the United States Army?

14 A. Total interactions, I would say, at the Abu Ghraib compound  
15 were two. The first one, we were all brought in in small  
16 groups. This would have been, again, late January of 2004, just  
17 to fill out some paperwork. Most of the questions had to do  
18 with if we had witnessed any MP untoward actions. There was a  
19 small portion on the back that asked if we had seen anything  
20 else. That's where I had written down a little bit of what I  
21 knew, that I had learned by then.

22 And then I was called in, I believe the next day, for  
23 an actual face-to-face interview. That's the one I had with the  
24 CID agent where we discussed all of the events that I had  
25 learned about or seen since my arrival.

1 Q. Without going into the specific statements made by CACI  
2 employees, can you describe, what is it, sir, that you reported  
3 to the CID?

4 MR. O'CONNOR: Objection. Hearsay.

5 THE COURT: Overruled.

6 A. I reported that I had concerns about the actions of DJ and  
7 Tim Dugan, and I advised the CID agents to look into their  
8 files. Specifically, when I say "their files," I was  
9 specifically saying look into the files that they had generated  
10 regarding their detainees. Because that's what they were  
11 specifically asking about.

12 Then I described the events that I had learned about  
13 that were associated with DJ and Tim Dugan. I discussed one  
14 other female specialist that I had heard about, but honestly,  
15 that happened before I arrived. That was about the only other  
16 thing that I actually remember discussing with the CID agent.

17 Q. Could you take a look at the binder in front of you, and  
18 flip to the document behind PTX 051 for identification. And  
19 just take a look at the last page of this document. It's a  
20 four-page document. And tell me if you recognize this document.

21 A. Yes, I do.

22 Q. Without reading out loud the substance of the document, can  
23 you tell the jury what this document is?

24 A. This is my statement that I gave to the CID agent at the  
25 Abu Ghraib prison.

1 MR. FARIDI: Your Honor, we offer PTX 051.

2 MR. O'CONNOR: Objection, Your Honor. Hearsay.

3 THE COURT: We don't let reports like this go in. If  
4 you've got specific questions, you ask the witness the question.  
5 If he cannot recall the answer, you may be able to use this to  
6 refresh his memory. All right?

7 Q. At the time you made this statement, sir -- withdrawn.

8 At the time you spoke to CID, were you working for  
9 CACI?

10 A. I was.

11 Q. And after you had these interactions with the CID, did you  
12 have any interactions with Mr. Dugan?

13 A. Yes.

14 Q. And can you describe those interactions?

15 A. This would have been about, I believe, the day after I had  
16 given my statement to the CID agents. My typical routine was to  
17 wake up, take care of hygiene, breakfast, that sort of thing,  
18 then go to work, work a full day, then go back to my compound.  
19 By that time I was living in my own cell.

20 So I saw Tim in passing, I can't remember -- I think it  
21 was at our individual compound. And I said hello. He ignored  
22 me, didn't respond. I said hello again: Hey, Tim, how you  
23 doing?

24 Then he stopped, turned around, came up to me, probably  
25 about two inches from my face, and he stared at me and he said,

1 "Watch your back, you're dead to me."

2 Then he just turned around and he walked away.

3 Q. Did you speak to Dan Porvaznik about this issue?

4 A. Yeah. So not immediately. I was concerned by what had just  
5 taken place, but I didn't immediately talk with Dan. I went and  
6 got chow, breakfast, and I learned that DJ was also upset at  
7 that time. After that, I saw Dan. This was in the open area  
8 between the chow hall and the JIDC and the living quarters. I  
9 stopped him: Hey, what's going on? And just to see if my fears  
10 were confirmed.

11 Q. Did you document your concerns with respect to Mr. Johnson's  
12 and Mr. Dugan's conduct in writing?

13 A. Yes.

14 Q. Did you send that document over to CACI?

15 A. Yes. I don't remember the exact date, but I did send,  
16 shortly thereafter, an email to Amy Jensen asking that word be  
17 given to Scott Northrop, the country manager, that I no longer  
18 wish to work for CACI because I was afraid for -- based upon the  
19 circumstances, for my life, and I didn't feel like I could trust  
20 the local leadership at the Abu Ghraib prison.

21 Q. When you say "the local leadership," whose leadership you  
22 couldn't trust?

23 A. I specifically stated the local CACI leadership.

24 Q. Can you take a look at the document behind Tab PTX 221.

25 A. (Witness complies.)

1 Q. Do you recognize this document?

2 A. Yes.

3 Q. And without reading out loud the content of the document,  
4 what is this document?

5 A. This is my resignation letter, my email that I sent to  
6 Amy Jensen.

7 MR. FARIDI: Your Honor, we offer PTX 221.

8 MR. O'CONNOR: No objection, Your Honor.

9 THE COURT: It's in.

10 (PLAINTIFF EXHIBIT Number 221 was admitted into  
11 evidence.)

12 MR. FARIDI: Can you please blow that up?

13 Q. And you write here: "Dear Amy, I unfortunately have to  
14 inform you that I no longer wish to work for CACI, as I feel  
15 that, one, there is too great a danger to my life at this time;  
16 and, two, I cannot trust the local level of CACI leadership  
17 here."

18 Why did you write that your life was in too great a  
19 danger?

20 A. Well, from Day 1 I knew there was a danger on the outside.  
21 We were being constantly mortared and such like that. It was a  
22 very frequent basis, very frequent basis to be mortared,  
23 rocketed. That wasn't the issue. I continued to work there for  
24 a couple of months with that.

25 It was when the circumstances changed and I received

1 threats to my face and I heard that there were other threats.  
2 And then, when I took that to the attention of the local CACI  
3 leadership and I was rebuffed for my concerns, that I felt that  
4 I had no other recourse but to actually quit and move on.

5 Q. How many days per week was Dan Porvaznik on site at  
6 Abu Ghraib?

7 A. He lived there. He was there 24/7, along with us.

8 Q. Did Scott Northrop, Dan Porvaznik's boss, ever visit  
9 Abu Ghraib?

10 A. Scott, as far as I know, was based at CACIville in  
11 Camp Victory on the west side of Baghdad, and he would visit, I  
12 would say, probably about once a month.

13 Q. So did you stop working for CACI?

14 A. Not immediately. Scott showed up on one of his routine  
15 regular visits and just happened to run into me, and he wanted  
16 to have a conversation. He liked me, I liked him, so we talked  
17 and I told him everything that had occurred by then. And at  
18 that point he offered to take me directly -- on that same day,  
19 he said, "Pack your bags, I'll take you back to CACIville."

20 Q. Did CACI fire Daniel Johnson?

21 A. No.

22 Q. Did CACI fire Timothy Dugan?

23 A. No, not to my knowledge.

24 Q. And did you stop working for CACI, ultimately?

25 A. Ultimately, yes. It took about a week or so, but yes, I

1 did.

2 Q. And after you resigned from CACI, where did you go work  
3 next?

4 A. I went almost directly to Afghanistan. I worked in a  
5 support role for special operations at the Bagram Air Force Base  
6 targeting high-value detainees.

7 Q. Now, you spoke about what you observed at Abu Ghraib about  
8 20 years ago in some detail.

9 A. Yes.

10 Q. How do you remember those details today, 20 years later?

11 A. The same way I remember how my father died, Mother's Day  
12 1988, when I was 19, died in my arms. It's pivotal moments in  
13 your life that you can recollect without much difficulty. They  
14 stay with you your entire life.

15 Q. Why has that two-month experience at Abu Ghraib, November  
16 and December 2003 and early January 2004, why has that  
17 experience stayed with you?

18 MR. O'CONNOR: Objection. Relevance, Your Honor.

19 THE COURT: No, I think it goes to his credibility.  
20 I'll permit it. Overruled.

21 A. The impact of it. I've had 15 different deployments  
22 throughout my career. Most of those have been into war zones.  
23 In my opinion, Abu Ghraib was probably the worst deployment I've  
24 ever had.

25 Q. Are you appearing voluntarily here today?

1 A. I am.

2 Q. Did you come here from Fort Huachuca, Arizona?

3 A. Yes, I did.

4 Q. Why did you agree to come testify from Arizona here today?

5 MR. O'CONNOR: Relevance, Your Honor.

6 MR. FARIDI: Credibility.

7 THE COURT: I think at this point I'll sustain the  
8 objection.

9 MR. FARIDI: No further questions, Your Honor.

10 THE COURT: All right. Cross-examination?

11 MR. O'CONNOR: We have binders, Your Honor.

12 **CROSS-EXAMINATION BY COUNSEL FOR DEFENDANT**

13 BY MR. O'CONNOR:

14 Q. Mr. Nelson, you testified that you flew over to Iraq with  
15 Scott Northrop. Right?

16 A. Correct.

17 Q. And he was a CACI country manager?

18 A. Yes. He was the incoming one. I don't know who was country  
19 manager before him.

20 Q. And that made him the senior CACI employee for  
21 administrative matters. Right?

22 A. As far as I know, yes.

23 Q. And when you arrived at Abu Ghraib prison in November 2003,  
24 the CACI site lead was Dan Porvaznik?

25 A. At Abu Ghraib, correct.

1 Q. And if you had operational issues at Abu Ghraib prison, you  
2 knew you were supposed to take those through the military chain  
3 of command. Correct?

4 A. If it involved interrogations, yes.

5 Q. And while you were serving at Abu Ghraib prison, you knew  
6 that CACI couldn't do anything about operational affairs,  
7 intelligence matters, anything like that?

8 A. Sure they could.

9 Q. Okay. Do you remember appearing for a deposition-type sworn  
10 statement, where it was taken by Susan Burke?

11 A. Yeah, that would have been probably, what, September 2005, I  
12 believe.

13 Q. Can you turn to Tab 1 in the binder that's in front of you?

14 THE COURT: I don't think there's a Tab 1. Do you mean  
15 the statement?

16 MR. O'CONNOR: I meant the first tab, Your Honor, the  
17 one that says "Statement."

18 Q. And let's turn to page 22.

19 A. (Witness complies.)

20 Q. Starting at line 21.

21 A. Line 21 on page 22?

22 Q. Page 22, line 21.

23 A. Where it says "Interrogators"?

24 Q. No, where it says, "Not that CACI." Page 22, line 21.

25 A. Yes.

1 Q. Didn't you testify, "Not that CACI -- we knew that CACI  
2 couldn't do anything, really, about operational affairs,  
3 intelligence matters, anything like that, but at least that they  
4 should be aware of the fact that some of the CACI personnel were  
5 dealing, through the military chain of command, with  
6 intelligence matters or operational matters."

7 A. Yes.

8 Q. And CACI personnel back in the United States didn't have any  
9 role with respect to operational matters, did they?

10 A. Directly, no.

11 Q. And to your knowledge, there was no one stateside at CACI  
12 that was even concerned with operational matters?

13 A. No, I would disagree with that.

14 Q. Okay. Can you turn to page 27 of your statement that you  
15 gave in 2005?

16 A. Uh-huh.

17 Q. Can you read lines 10 to 13 from page 27?

18 A. "The operations side, to my knowledge" --

19 THE COURT: No, no, read it to yourself. Does it  
20 refresh your memory?

21 THE WITNESS: Oh, okay.

22 A. Okay.

23 Q. You didn't understand anyone stateside or in CACI's home  
24 office to have any concern with the operational matters at  
25 Abu Ghraib prison. Right?

1 A. That's correct.

2 Q. And before you could conduct an interrogation, you were  
3 required to submit an interrogation plan for approval. Right?

4 A. Yes.

5 Q. And that was absolutely required?

6 A. Yeah. It could be done on the same day, but usually it was  
7 24 hours in advance.

8 Q. And it was submitted to the Army chain of command for  
9 approval?

10 A. Yes.

11 Q. And that interrogation could not go forward until the Army  
12 approved the interrogation plan?

13 A. That's correct.

14 Q. The Army chain of command also established the interrogation  
15 rules of engagement for interrogations at Abu Ghraib prison?

16 A. Yes.

17 Q. And those applied both to military interrogators and CACI  
18 interrogators?

19 A. That's correct.

20 Q. You talked about your interactions with Army CID in  
21 January 2004. Do you recall filling out a form where they asked  
22 what you knew about detainee abuse?

23 A. Please repeat.

24 Q. You testified earlier about your interactions with Army CID  
25 in January of 2004.

1 A. Yes.

2 Q. Do you remember filling out a canvass worksheet where you  
3 were asked your knowledge of detainee abuse at Abu Ghraib  
4 prison?

5 A. Yes, I do. That was the one that I referenced earlier.

6 Q. And you were asked whether you had seen any photographs of  
7 detainees other than those authorized for official use.

8 Correct?

9 A. On the form?

10 Q. Yeah.

11 A. I don't recollect whether or not I was asked. I haven't  
12 seen the form in a very long time.

13 Q. Let me actually ask it this way. At the time, by January of  
14 2004, you hadn't seen any photographs of detainees other than  
15 that were taken for official purposes. Correct?

16 A. That's correct.

17 Q. And when they asked if you had ever seen photographs of  
18 detainees being abused or humiliated?

19 A. I hadn't seen anything.

20 Q. Were you asked if you knew of any circumstances where MPs  
21 working within the detention facility were used to soften up or  
22 prepare detainees for interrogations by giving them physical  
23 fitness or other acts to sway the detainee to cooperate?

24 A. I believe that -- you're asking me what my answer was on  
25 that form, or do I recall anything like that?

1 Q. Well, do you recall anything like that?

2 A. Direct observation, yes, a couple of incidents.

3 Q. Okay. I'll come back to that.

4 A. But I couldn't peg them to anybody.

5 Q. You couldn't peg those to any particular individual?

6 A. Any particular individuals, yes. But they were part of the  
7 many things that I had seen that caused me concern, which is why  
8 I started looking into the few files that I could.

9 Q. Could you turn to PTX 216 in your binder.

10 A. (Witness complies.)

11 Q. Are you there?

12 A. Yes. PTX 216. Correct?

13 Q. Yes, 216.

14 A. Yes.

15 Q. Can you look at the fourth Q&A from the bottom and just read  
16 it to yourself.

17 A. Fourth from the bottom?

18 Q. It starts with, "Do you know." A lot of them start that  
19 way, but...

20 A. Okay.

21 Q. And does this refresh your recollection as to whether you  
22 were asked if you knew of any circumstances where military  
23 police were asked to soften up or prepare detainees for  
24 interrogations?

25 A. No. My answer is still the same.

1 Q. Your answer is no. Right? Why don't you read out loud the  
2 fourth Q&A from the bottom that starts with, "Do you know of any  
3 circumstances"?

4 THE COURT: We've got a sort of informal rule in this  
5 case. All right? Let's refresh the memory.

6 MR. O'CONNOR: I thought I just did, Your Honor.

7 Q. Do you remember being asked whether -- any circumstances  
8 where military police working within the detention facility were  
9 used to soften up or prepare detainees for interrogations?

10 A. Specific circumstances --

11 THE COURT: Well, the question is very straightforward.  
12 Do you recall being asked that question or do you recall that  
13 question?

14 THE WITNESS: Do I recall being asked that question?  
15 Yes.

16 THE COURT: And do you recall what your answer was to  
17 that question?

18 THE WITNESS: Yes.

19 Q. And what was your answer?

20 A. No. Specific circumstances, no.

21 Q. Well, it was "No," period. Right?

22 A. Well, for a specific question.

23 Q. Well, to the question, "Do you know of any circumstances  
24 where military police working within the detention facility were  
25 used to soften up or prepare the detainees for interrogations by

1 giving them physical fitness or other acts to sway the detainee  
2 to cooperate," your answer was "No," period. Correct?

3 A. Yes.

4 Q. And you were also asked if you had ever witnessed any acts  
5 of abuse or maltreatment while working at the facility. Right?

6 A. Correct.

7 Q. And you answered yes to that?

8 A. That's correct.

9 Q. And you gave a written description of that on the back of  
10 the page?

11 A. Yes.

12 Q. And the only act of detainee abuse that you stated you had  
13 seen involved an MP in the in-processing area who shoved a  
14 couple of detainees. Correct?

15 A. Yes.

16 Q. Okay. Let's go back to your interactions in January of 2004  
17 with Dugan.

18 A. Okay.

19 Q. You had gone to Army CID and you had made a written  
20 statement. Correct?

21 A. Yes.

22 Q. And your statement says that the people you suggested that  
23 CID look at are Dan Johnson and Tim Dugan. Correct?

24 A. Yes.

25 MR. FARIDI: Objection, hearsay. I wasn't allowed to

1 put the statement in.

2 MR. O'CONNOR: This isn't -- I'm not offering for the  
3 truth of the matter. It's the fact that he told --

4 THE COURT: I don't see that as a problem. It's not  
5 hearsay. He's asking this witness right now who he reported to  
6 CID, and that's not a hearsay issue.

7 Q. And you told CID that you would really look at the files for  
8 the detainees of Dugan and Johnson?

9 A. Correct.

10 Q. Now, at the time, you didn't have anything in terms of  
11 firsthand knowledge on Dugan and Johnson as it related to  
12 detainee abuse, did you?

13 A. Depends on what you mean by "firsthand." I looked at the  
14 files that they themselves generated.

15 Q. Okay. When you had your sworn statement, the  
16 deposition-style sworn statement, did you testify: "I don't  
17 really -- I don't have anything really damning, but go ahead and  
18 take this, and maybe if it helps your investigation, it does."

19 A. Yes. That sounds more like what I would actually say.

20 Q. And that's what you were trying to convey to CID in 2004?

21 A. Correct. I had concerns.

22 Q. But nothing damning?

23 A. But I wasn't witnessing anything with my own eyes.

24 Q. And your understanding was that CID would keep your identity  
25 confidential?

1 A. That was my understanding, correct.

2 Q. And the next day you walked past Dugan and he ignored you,  
3 and when you came up to him, he said, "You better watch your  
4 back, you're dead to me, I'm through with you." Right?

5 A. Yes.

6 Q. And then he walked away?

7 A. Yes.

8 Q. You've heard people say, "You're dead to me" before. Right?

9 A. Oh, sure.

10 Q. That means, I don't want to have anything to do with you  
11 anymore. Right?

12 A. It can.

13 Q. And then you went to the site lead, Dan Porvaznik, and you  
14 acted innocent of the whole affair, and asked Dan if he had any  
15 idea what was going on with Dugan?

16 A. Yeah, I wanted to see what the local leadership was aware  
17 of.

18 Q. Because you believed you knew exactly why Tim Dugan was mad  
19 at you?

20 A. I had a suspicion. But I didn't want to volunteer any  
21 information, because I was still trying to keep it confidential  
22 for the CID investigation that was going on.

23 Q. And you looked Dan Porvaznik right in the eye, and you lied  
24 to him and said that you had not said anything about Dugan and  
25 Johnson. Right?

1 A. By a lie of omission, possibly. But I didn't say a lie of  
2 commission. I didn't say that I didn't speak to them.

3 Q. Did you tell -- well, isn't it true that you tried to play  
4 innocent, and you said to Porvaznik, "I don't know what he's  
5 talking about. You know, I went and talked to CID, but if  
6 they've got anything on Tim, it's got to be from somewhere  
7 else."

8 A. That sounds probably about what I was actually saying to  
9 Dan.

10 Q. And you didn't think Dan believed you, did you?

11 A. No. He was very skeptical about it.

12 Q. And you didn't like -- and that bothered you, that he didn't  
13 believe you?

14 A. Not that he didn't believe me. It was that, in my opinion,  
15 he had already chosen a side.

16 Q. Can you look back at plaintiffs' binder, at PTX 221?

17 A. (Witness complies.)

18 Q. Maybe I misheard you, but did you testify that your email to  
19 Amy Jensen told her what had happened between you and Tim Dugan  
20 and Dan Johnson?

21 A. My email to Amy Jensen?

22 Q. Yeah.

23 A. No.

24 Q. Okay. So you did not tell CACI management in the  
25 United States about the concerns you had from your interactions

1 with Dugan and Johnson in January of 2004?

2 A. Not in a written form, no. Not CACI in the United States,  
3 no.

4 Q. And when you gave notice to Amy Jensen, it just so happened  
5 that Scott Northrop was at Abu Ghraib?

6 A. Shortly thereafter. He wasn't there at the time, but  
7 shortly thereafter, yes.

8 Q. And you told him that you had resigned, and he said, well,  
9 I've got room in the SUV, hop in and I'll take you to  
10 Camp Victory?

11 A. Yes. Yes.

12 Q. And when you got back to Camp Victory, CACI offered you  
13 another position in CACI?

14 A. That's correct. Tom Howard, who identified himself as the  
15 C2X, said that he had multiple positions available for me if I  
16 wanted to stay.

17 Q. And then you would have been away from Dugan and Johnson?

18 A. Potentially. There was no affirmation of that.

19 Q. But ultimately you decided you didn't want to take those job  
20 offers, and wanted to quite instead?

21 A. That's correct.

22 Q. And you talked about your experience of interrogation  
23 personnel at Abu Ghraib prison. It was the Army that set the  
24 criteria for civilian interrogators. Correct?

25 A. Yes.

1 Q. And you know that some CACI personnel were promoted by the  
2 Army once they were at Abu Ghraib, so they would be moved from,  
3 for instance, screener to interrogator?

4 A. Agreed to.

5 Q. The Army approved any promotion --

6 A. It wasn't their own opinion. It was recommendations and  
7 then they agreed to it, sure.

8 Q. And the Army agreed to it?

9 A. Yes.

10 MR. O'CONNOR: No further questions, Your Honor.

11 MR. FARIDI: Briefly, Your Honor.

12 **REDIRECT EXAMINATION BY COUNSEL FOR PLAINTIFFS**

13 **BY MR. FARIDI:**

14 Q. By the way, who is Tom Howard?

15 A. Tom Howard was an individual that I had not met, to my  
16 knowledge, prior to departing Abu Ghraib and going back to  
17 CACIville. I had the intention of leaving, and then Tom spoke  
18 with me a couple of times, introduced himself to me. I don't  
19 remember the position that he mentioned, but I believe it was  
20 the C2X. And he stated that he had been the TIF CICA before at  
21 a very large multinational exercise in Poland, which is a very  
22 big deal, and so that he had some sway.

23 So he recommended that I be switched over to one of  
24 three positions that were available.

25 Q. And what's C2X?

1 A. Corps level intelligence director. They basically report to  
2 the senior intelligence officer for the entire corps which was  
3 running the operation in Iraq in 2003, 2004.

4 Q. Who did he work for?

5 A. He worked for CACI.

6 Q. And he was in Iraq?

7 A. Yes, he was there at CACIville speaking directly with me.

8 Q. And when he learned as to what happened to you at  
9 Abu Ghraib, did he fire DJ or Tim Dugan?

10 A. To my knowledge, no. He never even mentioned either of  
11 them.

12 Q. Uh-huh. You were asked a number of questions about --  
13 withdrawn.

14 Do you recall a few questions about whether or not  
15 interrogations, techniques used, need to be documented? Do you  
16 recall that from Mr. O'Connor?

17 A. Could you refresh that moment?

18 Q. Let me ask a different question. That was a terrible  
19 question.

20 Did you observe conduct at Abu Ghraib that was not  
21 documented in an interrogation plan?

22 A. Yes.

23 Q. Did abuse take place at Abu Ghraib?

24 A. Well, absolutely.

25 Q. When you reported your concerns to CID, why is it that you

1 didn't broadcast those concerns to Mr. Porvaznik?

2 A. I didn't want to compromise the integrity of the CID  
3 investigation. I wanted to give the CID investigators the  
4 opportunity to be able to conduct their investigation to the  
5 best of their abilities.

6 Q. Did you share the concerns that you had about Mr. Dugan and  
7 Mr. DJ with CACI?

8 A. Specifically, no. Again, it was an ongoing investigation by  
9 the CID. I gave the proper investigators the information that I  
10 knew, with the reasoning that if they were to find something  
11 that really concerned them or upset them, then they would let  
12 the contractors who were supporting them know about their  
13 findings.

14 Q. Okay. My question was about -- let me ask a different  
15 question.

16 What did you and Mr. Porvaznik speak about after the DJ  
17 and Dugan incident?

18 A. I specifically wanted to -- I went and asked Dan what was  
19 going on. I knew what was going on because I was a party to it.  
20 What I wanted to know was, what did the management or what were  
21 other people on the base who were outside of it, what did they  
22 know and what were they thinking.

23 So I was ultimately not only reporting that there was a  
24 problem, but I wanted to see what level of support I would be  
25 able to expect from my local leadership.

1 Q. You said earlier that he had already made up his mind. What  
2 did you mean by that?

3 A. Well, he was very standoffish. He was very suspicious.  
4 Specific words were, "Did you do anything to piss them off, to  
5 set them off," I think were the words that he specifically used.

6 Q. Piss who off?

7 A. Mr. Dugan and Dan Johnson.

8 MR. FARIDI: No further questions, Your Honor.

9 THE COURT: Just so we're clear on chronology, the CID  
10 called on you to give them the report, or did you voluntarily go  
11 to the CID before they contacted you?

12 THE WITNESS: Your Honor, they called everybody in one  
13 day for the written --

14 THE COURT: After the -- I'm sorry, this is after these  
15 pictures started to appear in the press?

16 THE WITNESS: No. That was well before.

17 THE COURT: All right.

18 THE WITNESS: They called everybody who was working at  
19 the JIDC in in small groups to be able to fill out the  
20 paperwork. Everybody that gave some sort of positive answer,  
21 whether big or small, was called in about a day or two later to  
22 have a one-on-one interview with one of the CID agents, which is  
23 where I gave my sworn statement.

24 THE COURT: All right. But that's the first time you  
25 reported any of the possible abuses?

1 THE WITNESS: That's correct.

2 THE COURT: Was there any further questioning?

3 MR. O'CONNOR: No, Your Honor.

4 MR. FARIDI: None from us, Your Honor.

5 THE COURT: Does anybody anticipate calling this  
6 witness again during the course of the trial?

7 MR. O'CONNOR: No, Your Honor.

8 MR. FARIDI: Not us, Your Honor.

9 THE COURT: All right. Then, sir, you are excused as a  
10 witness. That means you can stay and watch the proceedings or  
11 leave. But you are not to discuss your testimony or anything  
12 you see or hear in court, if you should stay and watch the  
13 proceedings, with any witness who has not yet testified.

14 Do you have another witness?

15 MR. FARIDI: Yes, Your Honor.

16 THE COURT: How long will that take?

17 MR. FARIDI: The next clip is about six minutes,  
18 followed by a clip which is about four minutes, followed by  
19 another clip which is about seven minutes.

20 THE COURT: All right. We have just enough time to get  
21 that in this afternoon. All right.

22 MR. FARIDI: Plaintiffs call Charles Graner via  
23 deposition designations. And these have been shared with CACI.

24 THE COURT: All right.

25 MR. FARIDI: And we have the transcript as well as --

1 I'm sorry, just the transcript of the testimony. Would  
2 Your Honor like that now, to make it part of the record?

3 THE COURT: Yeah, I'm going to assume that the jury  
4 will be able to -- yes, you've got it up here on the screen.  
5 Yes, we'll just make that a part of the record right now.

6 MR. FARIDI: Your Honor, he's also going to be shown  
7 PTX 159, which we move into evidence.

8 THE COURT: Any objection to 159?

9 MR. O'CONNOR: No objection, Your Honor.

10 THE COURT: Plaintiffs' 159 is in.

11 (PLAINTIFF EXHIBIT Number 159 was admitted into  
12 evidence.)

13 (Videotaped deposition designations of CHARLES GRANER  
14 played in open court.)

15 (Excerpt ended.)

16 THE COURT: I'm going to give the jury a break.  
17 Remember, we want to start at 9:30. We can't start until you're  
18 all here.

19 Please leave your notebooks here, we'll get them back  
20 to you tomorrow. Remember my cautions now. Please avoid any --  
21 you must avoid any media coverage or any kind of information  
22 that could possibly taint your thought process. I always tell  
23 jurors, the best thing you can do to prepare for jury service is  
24 get a good night's sleep and maybe some fresh air. I know it's  
25 a long day.

1 Tomorrow, so you know for the schedule, the lunch break  
2 will be at 1 o'clock. You'll get a mid-morning break and a  
3 mid-afternoon break, and we try to stop a little before 6:00.

4 We're going to stay in session. Let the jury leave  
5 now. And we thank you for your service today.

6 (Jury out at 4:53 p.m.)

7 THE COURT: I'd like to catch up and do today and  
8 tomorrow's exhibits, so we know each day what's been admitted.  
9 All right?

10 Secondly, where are we in terms of the plaintiffs'  
11 case? In other words, are with on schedule, behind schedule, or  
12 ahead schedule?

13 MR. FARIDI: We are on schedule. Your Honor, if this  
14 current pace continues, I think we would probably rest sometime  
15 on Thursday.

16 THE COURT: All right. I told you we were fast.

17 MR. FARIDI: I can't promise you at what point it's  
18 going to be on Thursday, but we've cut our case down  
19 significantly and we're going to try to rest on Thursday.

20 THE COURT: All right. And again, the protocol is that  
21 you're giving your list of witnesses, both I want to know and  
22 the defense should know tonight, all right, if you haven't  
23 already done that.

24 MR. FARIDI: Yes, Your Honor.

25 THE COURT: So that does mean, Mr. O'Connor, to the

1 extent you're planning your case, if you have live witnesses in  
2 particular, you might want to make sure they're here on  
3 Thursday.

4 MR. O'CONNOR: We're anticipating we'll start our case  
5 on Thursday, Your Honor.

6 THE COURT: Very good. Is there anything further we  
7 need to address right now?

8 MR. FARIDI: There is one issue that Ms. Ginsberg had  
9 flagged earlier for the Court, and that relates to a handful of  
10 exhibits that are on our exhibit list that CACI seeks to strike  
11 on the basis that they are in furtherance of the conspiracy.

12 Our contention is that we are offering them for  
13 multiple other purposes, not to establish the cover-up of the  
14 conspiracy.

15 THE COURT: Well, I don't have them right now in front  
16 of me, so what I want you to do is this evening get us a copy or  
17 make sure we know where they are in the record, what we're  
18 talking about. You need to proffer -- in writing, so I don't  
19 have to hear it all in court, you need to proffer what it is  
20 that you're offering them for. All right? And obviously send a  
21 copy of that to CACI.

22 I have an unrelated criminal matter in here at 8:30  
23 tomorrow morning, so you have to clean off your tables. And it  
24 shouldn't take that long, so what I may do is come in maybe 25  
25 after 9:00, before the jury gets here, and resolve the issue for

1 you on the record. All right?

2 MR. FARIDI: Would you like the submission to be filed  
3 on ECF, on the docket, or emailed to chambers?

4 THE COURT: Always a good idea to have everything on  
5 the record so that you have it for appellate purposes.

6 Is that clear, everybody, Ms. Ginsberg?

7 MS. GINSBERG: Yes, it is.

8 Your Honor, I'll make one thing a little easier. Your  
9 Exhibit 93, we don't object to anymore. Based on Mr. Nelson's  
10 testimony, I think we would want to introduce it.

11 But I was hoping that the plaintiffs might be willing  
12 to tell us which of the Iraqi witnesses they're going to call  
13 tomorrow, if they know now. Because we have to provide a thumb  
14 drive. We have some considerable work to do, and it would be a  
15 little more helpful if we knew now instead of at 8 o'clock this  
16 evening.

17 MR. FARIDI: We expect Asa'ad Al-Zuba'e to testify  
18 tomorrow morning. He'll hopefully begin testifying at  
19 9:30 a.m., which will be many hours later in Baghdad. And on  
20 Wednesday morning we expect the last plaintiff to testify at  
21 9:30 a.m.

22 THE COURT: Again at 9:30?

23 MR. FARIDI: Yes.

24 MS. GINSBERG: Thank you. Appreciate it, counsel.

25 THE COURT: Everybody get that? Anything further?

1 MR. O'CONNOR: Just one thing quickly, Your Honor. As  
2 we're playing depositions, obviously both sides have an interest  
3 in having the clips be a part of the record. Should we just  
4 file those, or do we just hand them to the Court and the Court  
5 will make them part of the record?

6 THE COURT: No, the transcripts are being filed. Did  
7 you not prepare transcripts independently of the clip? My  
8 understanding is what counsel just provided us for this last  
9 witness was the written transcripts of just the portions that  
10 were played.

11 MR. O'CONNOR: Right. The clip. That's what I mean.  
12 I mean the written clip.

13 THE COURT: The written transcript, the transcript of  
14 the clip --

15 MR. O'CONNOR: That's right.

16 THE COURT: -- should be filed so we have that as part  
17 of the record of the case. I'm not giving it an exhibit number,  
18 and the jury is not going to get them, all right? Because that  
19 would be focusing on certain testimony, and we don't do that.  
20 But it will be part of the permanent record for appellate  
21 purposes.

22 MR. O'CONNOR: That's helpful. Then we'll just file  
23 them at night after a witness testifies so the record is  
24 complete.

25 THE COURT: All right. Very good. We're in recess

1 until 8:30 tomorrow morning.

2 (Off the record at 5:59 p.m.)

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10 **CERTIFICATE OF OFFICIAL COURT REPORTER**

11

12 I, Rebecca Stonestreet, certify that the foregoing is a  
13 correct transcript from the record of proceedings in the  
14 above-entitled matter.

15

16

17

18  //Rebecca Stonestreet//

4/22/24

19 **SIGNATURE OF COURT REPORTER**

**DATE**

20

21

22

23

24

25

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