

# Exhibit D

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

- - -  
SULEIMAN ABDULLAH :  
SALIM, MOHOMED AHMED : DOCKET NO.  
BEN SOUD, OBAID ULLAH :  
(as personal : 2:15-CV-286-JLQ  
representative of GUL :  
RAHMAN), :  
:  
Plaintiffs, :  
:  
v. :  
:  
JAMES ELMER MITCHELL :  
and JOHN "BRUCE" :  
JESSEN, :  
:  
Defendants. :

- - -  
Friday, January 20, 2017  
- - -

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

\* \* \*

MAGNA LEGAL SERVICES  
(866) 624-6221  
www.MagnaLS.com

1 government and themselves.

2 BY MR. LAVIN:

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

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

1 in number, but higher in risk of capture.

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

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

16 A. Yes.

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

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

24 A. There is a phenomenon that

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

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

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

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

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

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

23 A. Rarely.

24 Q. But it happens sometimes?

1 A. Yes.

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

6 A. I think that's correct.

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

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

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

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

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

23 A. Yes.

24 Q. Could you tell me in

1 Inquiry into the Treatment of  
2 Detainees in US Custody. That's  
3 marked as -- what exhibit number  
4 is that?

5 MR. SMITH: 27.

6 MR. LAVIN: Thank you.

7 BY MR. LAVIN:

8 Q. Have you ever seen this  
9 report?

10 A. No.

11 Q. Do you remember giving  
12 testimony to the Committee on Armed  
13 Services?

14 A. Yes.

15 Q. Do you remember roughly when  
16 that was?

17 A. Years ago.

18 Q. Maybe around 2007, does that  
19 sound --

20 A. I don't remember  
21 specifically.

22 Q. All right. I'd like to  
23 direct your attention to the page  
24 numbered XXVI.

1 A. Page number what?

2 MR. SMITH: XXVI.

3 BY MR. LAVIN:

4 Q. That would be in the  
5 Introduction. There's -- there's a list  
6 there of what the Senate Armed Services  
7 Committee labeled as its conclusions.

8 A. I don't know where you're  
9 at.

10 MR. SMITH: I can help you.

11 There you go.

12 THE WITNESS: Okay.

13 BY MR. LAVIN:

14 Q. So if I could direct your  
15 attention to Conclusion No. 3 and just  
16 have you review that and let me know when  
17 you're ready.

18 So you see there at the end  
19 it says:

20 "The purpose of SERE  
21 resistance training is to increase the  
22 ability of US personnel to resist abusive  
23 interrogations, and the techniques used  
24 were based in part on Chinese Communist



1 techniques used during the Korean War to  
2 elicit false confessions."

3 Did you ever have an  
4 understanding that the SERE techniques  
5 were based in part on Chinese Communist  
6 techniques from the Korean War?

7 A. I think I do remember that.

8 Q. Do you think you knew that  
9 when you were a SERE psychologist?

10 A. When I was at the SERE  
11 school.

12 Q. When you were at the SERE,  
13 yeah.

14 A. Yeah.

15 Q. And do you think you knew at  
16 the time that these techniques had been  
17 used by the Chinese Communists to elicit  
18 false confessions?

19 A. I don't remember false  
20 confessions.

21 Q. Did you have any sense of  
22 whether these techniques could induce a  
23 person to make a false confession?

24 A. I don't understand your

1 question.

2 Q. So there's this list of  
3 techniques that's authorized for use by  
4 the Joint Personnel Recovery Agency --

5 A. Right.

6 Q. -- for use in training our  
7 soldiers to resist certain kinds of  
8 interrogation, and you had some awareness  
9 that these -- some of these techniques  
10 were based in part on Korean War  
11 techniques used by the Chinese  
12 Communists.

13 What I want to know is  
14 whether you had any understanding at the  
15 time that these techniques could induce  
16 an individual who is being subjected to  
17 them to make a false confession?

18 MR. SMITH: Objection.

19 You can answer the question.

20 You can answer.

21 THE WITNESS: Yeah. I don't  
22 have a specific memory of  
23 concluding that these could be  
24 used for false confessions.

1 Is that accurate?

2 A. Yes.

3 Q. And then the next sentence  
4 says:

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

13 Is that accurate?

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

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

21 A. I think it is.

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

1 A. I don't know.

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

5 A. You have me confused.

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

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

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

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

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

1 was with a special survival training  
2 program.

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

9 A. Yes.

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

17 Is that accurate?

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

24 Q. So the techniques were

1     simulating violations of the Geneva  
2     Conventions?

3             A.     Possibly.

4             Q.     Now, the next paragraph in  
5     this document says:

6                     "Typically those who play  
7     the part of interrogators in SERE school  
8     neither are trained interrogators nor are  
9     they qualified to be."

10                    Do you see with that  
11     sentence?

12             A.     Typically. Typically that's  
13     accurate.

14             Q.     It says:

15                     "These role players are not  
16     trained to obtain reliable intelligence  
17     information from detainees."

18                    Is that accurate?

19             A.     Typically that's accurate.

20             Q.     And it says:

21                     "Their job is to train our  
22     personnel to resist providing reliable  
23     information to our enemies."

24                    Is that correct?

1 MR. WARDEN: Sure, yes.

2 Yes.

3 MR. SMITH: So let's have  
4 the question read back.

5 THE WITNESS: Okay.

6 MR. LAVIN: Sure.

7 MR. WARDEN: I think it's  
8 a -- I think it's a broad enough  
9 question for the witness to start,  
10 and if we have a question, we'll  
11 put up a stop sign.

12 MR. SMITH: Fair enough.

13 MR. WARDEN: And if you'd  
14 like me to consult with him, we  
15 can do that as well.

16 MR. SMITH: 100 percent.

17 MR. WARDEN: One issue we're  
18 trying to avoid is interposing  
19 unnecessary objections to broad  
20 questions that could conceivably  
21 elicit classified information.

22 MR. LAVIN: And we very much  
23 appreciate that.

24 BY MR. LAVIN:

1           Q.     But certainly if you feel  
2     uncomfortable at any time or you need to  
3     consult, just -- just let us know.

4           A.     Well, I did.

5           Q.     Yeah.

6           A.     I mean, if I reach that  
7     point, that's why I did that.

8           Q.     Sure.

9           A.     Okay.

10           MR. SMITH: Let's have the  
11     question read back.

12           THE WITNESS: All right.

13           (Pertinent portion of the  
14     record is read.)

15           MR. SMITH: Note my  
16     objection.

17     BY MR. LAVIN:

18           Q.     You can answer.

19           A.     So I received a call from  
20     someone in the CIA asking if I could come  
21     back to CIA headquarters. So I got  
22     permission from -- from my commander and  
23     I went back.

24                     When I arrived there -- this



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

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

24 I think I made a phone call

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

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

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

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

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

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

1     shortly after that.

2                     That's what I remember.

3             Q.     And --

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

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

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

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

14                    This ends Disk No. 1.

15                    (Recess.)

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

19                    This begins Disk No. 2.

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

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

6 Am I correct, Mr. Warden?

7 MR. WARDEN: That's correct.

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

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

1 method would be used?

2 A. I was.

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

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

9 Q. Please do.

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

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

1 whoops. It that okay?

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

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

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

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

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

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



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

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

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

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

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

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

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

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

9       BY MR. LAVIN:

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

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

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

18           A.     Okay.

19           Q.     -- that you were discussing.

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

22                   MR. LAVIN: 17.

23                   MR. SMITH: Here's mine.

24           The witness has mine before him.

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

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

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

15 Q. Thank you.

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

19 Thank you.

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

23 (Lunch recess.)

24 THE VIDEOGRAPHER: The time

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

3 BY MR. LAVIN:

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

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

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

18 Q. How? How so?

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

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

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

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

5 A. Perhaps.

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

12 A. I didn't know.

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

17 A. Yes.

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

20 A. Roughly.

21 Q. When was that?

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

24 Q. So were you at the site at

1 the time that that decision was made?

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

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

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

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

10 A. Yes.

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

17 A. Okay.

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

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

1 lawful and authorized; 3, they are  
2 carefully controlled with medical and  
3 psychological oversight; 4, someone who  
4 is not otherwise involved in the  
5 interrogation can stop the use of the  
6 techniques; and 5, the techniques do not  
7 cause long-term physical or psychological  
8 harm."

9 Is that your view on --  
10 today on when the use of physically  
11 coercive techniques may be appropriate?

12 A. Yes. Yes.

13 Q. And it says here that you  
14 acknowledge that:

15 "Empirically it is not  
16 possible to know the effect of a  
17 technique used on a detainee in the  
18 long-term unless you study the effects in  
19 the long-term."

20 Is that accurate?

21 A. Yes.

22 Q. At the time that you and  
23 Dr. Mitchell proposed the use of these  
24 techniques, did you know whether the



1 but they receive it, yes.

2 Q. And do the people in the  
3 Special Mission Units receive extensive  
4 physical and psychological prescreening?

5 A. Yes.

6 Q. And the ones in the Special  
7 Missions Units would be the ones who  
8 received the more physically coercive  
9 pressures in their training?

10 A. Yes.

11 Q. Would you agree that that  
12 extensive physical and psychological  
13 prescreening the Special Mission Unit  
14 operators receive is not feasible for  
15 detainees?

16 A. No, I wouldn't. All the  
17 detainees were extensively screened. At  
18 least all the ones I've worked on.

19 Q. What was the nature of that  
20 screening?

21 A. They had psychological  
22 evaluations and physical evaluations, and  
23 they had psychologists, physicians who  
24 were there 24/7 who watched what was

1 going on.

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

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

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

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

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

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

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

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

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

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

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

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

17 A. Yes.

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

20 A. Yes.

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

1 A. No.

2 Q. You would not agree?

3 A. I would not agree.

4 Q. Can you explain?

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

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

23 A. Never in my presence.

24 Q. To the best of your

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

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

5           A.     No.

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

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

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

1 the remainder of his life?

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

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

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

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

1 Q. So when it says:

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

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

15 MR. SMITH: Objection.

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

22 BY MR. LAVIN:

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

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

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

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

12 MR. SMITH: Objection.

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

19 BY MR. LAVIN:

20 Q. Okay.

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



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

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

15 MR. SMITH: Objection.

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

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

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

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

17   BY MR. LAVIN:

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

24           A.     I'm referring to the

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

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

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

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

16            A.     Yes, we did.

17            Q.     And why did you do that?

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

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

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

11           Q.     Not at all.

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

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

18           A.     No, I'm fine.

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

23           A.     Yes.

24           Q.     How were those approvals

1           A.     I believe if they were taken  
2     to extreme, they could be detrimental.

3           Q.     What do you mean by  
4     detrimental?

5           A.     You don't understand  
6     detrimental?

7           Q.     I guess to me --

8                   MR. SMITH:   He's allowed to  
9     ask you that question, so answer  
10    it.

11                  THE WITNESS:   Oh, okay.  
12     Well, it means not good.   Harmful  
13     in some way.

14   BY MR. LAVIN:

15           Q.     Okay.   All right.

16           A.     I know you know what  
17     detrimental means.

18           Q.     Do you think there is a  
19     difference between an extreme form of a  
20     technique being detrimental and an  
21     extreme form of a technique inducing  
22     severe mental pain or suffering?

23                   MR. SMITH:   Objection.

24                  THE WITNESS:   Yeah, I think

1           there is a difference.

2       BY MR. LAVIN:

3           Q.     Do you think it's possible  
4       that, for example, sleep deprivation  
5       taken to the extreme could induce severe  
6       mental pain or suffering?

7                     MR. SMITH:  Objection.

8                     THE WITNESS:  I think that  
9       all precautions were taken in the  
10      CIA program to preclude that, but  
11      in a situation where they weren't,  
12      they could.

13      BY MR. LAVIN:

14           Q.     Are there any differences  
15      between how these SERE pressures, as  
16      we've been talking about, were applied in  
17      the SERE schools as opposed to how they  
18      were applied in the CIA program?

19           A.     A few.

20           Q.     Which ones were those?

21           A.     As applied -- as applied  
22      they were the same as they were applied  
23      in the SMU training, but their frequency  
24      was more in the CIA program.

1 Q. Now, Dr. Mitchell has  
2 described the effect of these techniques  
3 to be related to Pavlovian classical  
4 conditioning.

5 Do you agree that the  
6 interrogation strategy with the SERE  
7 techniques was based on the Pavlovian  
8 classical conditioning?

9 MR. SMITH: Can you show us  
10 where you're referring to in the  
11 document?

12 MR. LAVIN: Sure. Sure.

13 BY MR. LAVIN:

14 Q. So if you look at Exhibit 4  
15 from Dr. Mitchell's deposition. This  
16 is -- and it's on --

17 MR. SMITH: Give us a second  
18 here, if you would.

19 MR. LAVIN: Sure.

20 MR. SMITH: Can you just  
21 identify for the record what's  
22 before the witness?

23 MR. LAVIN: Sure. This is  
24 Exhibit 4 from Dr. Mitchell's

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

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

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

12 A. Yes.

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

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

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

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



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

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

5 A. Can you repeat that?

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

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

11 Q. Sure. Let me rephrase it.

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

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

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

1 start talking or you can get some more  
2 physical pressure.

3                   The pressure is designed to  
4 be used in a way that it doesn't harm but  
5 it makes someone uncomfortable, you know,  
6 it's more irritating than painful, but  
7 nonetheless, not something that you want  
8 happening. So if the detainee finds  
9 something to talk about, the physical  
10 pressure stops and if they start to  
11 obfuscate and refuse to give useful  
12 information again, you can reapply the  
13 pressure. Eventually, it doesn't take  
14 long to learn that if you don't want that  
15 to happen, you can talk or cooperate in  
16 some way.

17                   So the discomfort or the  
18 helplessness, the applied state of  
19 helplessness that you feel at the time is  
20 a -- is a temporary feeling of, you know,  
21 how am I going to get out of this, I  
22 don't like this, I want this to stop.

23                   As I said, that's the way  
24 it's described and recommended for use in

1 the Army Field Manual.

2 But the scientific state of  
3 learned helplessness is something that,  
4 as you have already pointed out, Jim and  
5 I strived hard to prevent in the SERE  
6 schools. We also spent a great deal of  
7 time talking to CIA officers about this  
8 because it was a concept that they --  
9 they used the term, but they didn't use  
10 the term correctly. Many of them would  
11 write cables and reports and say, We're  
12 going to use learned helplessness. They  
13 didn't understand the difference between  
14 Seligman's classic helpless state, which  
15 you don't want because then no one is  
16 going to cooperate in that state, as  
17 opposed to a temporary feeling of  
18 helplessness.

19 So that was one of many  
20 emotions or feelings that you tried to  
21 manipulate in a detainee to encourage  
22 them to be cooperative.

23 Q. Okay. Do you recall sort of  
24 in what ways you tried to communicate to

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

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

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

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

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

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

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

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

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

13                A.     Right.

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

17                A.     Uh-huh.

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

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

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

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

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

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

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

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

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

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



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

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

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

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

1 raised about the facility at Cobalt,  
2 whether changes were made at Cobalt?

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

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

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

1 to 1074, which is a cable labeled Eyes  
2 only - Noncompliance of Gul Rahman.

3 A. Okay.

4 Q. Do you recognize this  
5 document?

6 A. You know, I don't know if  
7 I've seen this before. If the con- --  
8 the contents seems to be, you know,  
9 familiar, but I don't -- I don't know if  
10 I've seen this particular one.

11 Q. Do you remember advising on  
12 the creation of a cable regarding the  
13 first 48 hours of interrogation of Gul  
14 Rahman?

15 A. No, I don't.

16 Q. Do you remember assessing  
17 whether he had a sophisticated level of  
18 resistance training?

19 A. Yes, I do.

20 Q. And do you remember  
21 identifying examples of his -- or let me  
22 rephrase that.

23 Did you notice things that  
24 suggested to you that he had a

1 sophisticated level of resistance  
2 training?

3 A. Yes.

4 Q. Are some of those --

5 A. I assumed he did.

6 Q. And were the reasons for --  
7 for your conclusion or your assumption  
8 that he had a sophisticated level of  
9 resistance training, were some of those  
10 laid out in this cable?

11 A. Yes. These bullet points,  
12 at least several of them, seem consistent  
13 with my observation, and I could have, in  
14 fact, made those observations to the  
15 Chief of Base who then incorporated them  
16 in his cable.

17 When I got there and he  
18 asked me to help him, I went and observed  
19 them interrogating Gul Rahman twice.  
20 Then he said, The agency wants you to  
21 make an assessment, so I did. I believe  
22 I did four sessions, each one would have  
23 been probably an hour or less.

24 So that was the sum total of

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

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

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

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

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

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

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

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

3 A. Correct.

4 Q. -- his picture on it?

5 That he was unresponsive to  
6 provocation?

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

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

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

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

1 Q. That's C.

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

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

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

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

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

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

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

1 violation of his human rights?

2 A. I don't.

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

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

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

10 A. Definitely.

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

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

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

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



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

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

14 A. Yes.

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

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

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

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

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

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

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

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

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

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

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

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

15 A. I did.

16 Q. Can you describe what that  
17 was?

18 A. You want to read it?

19 Q. Sure.

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

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

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

1 sleep deprivation was accomplished with  
2 detainees?

3 A. I know how sleep deprivation  
4 was accomplished on some detainees.

5 Q. Did you know how it was  
6 accomplished on detainees at Cobalt?

7 A. I do not.

8 Q. Do you know how it was  
9 accomplished with Nashiri?

10 A. I don't remember sleep  
11 deprivation being used with Nashiri, but  
12 I was only with him for a few days.

13 Q. Why don't -- why don't we  
14 ask this in a different way: What  
15 methods have you seen for inducing sleep  
16 deprivation?

17 A. I don't know if I'm allowed  
18 to tell you.

19 MR. LAVIN: Is that -- we  
20 can take a moment.

21 MR. WARDEN: Why don't we  
22 confer on that?

23 MR. LAVIN: Sure.

24 THE VIDEOGRAPHER: The time

1 is 4:10 PM. We are now off the  
2 video record.

3 (Recess.)

4 THE VIDEOGRAPHER: We are  
5 now back on the video record. The  
6 time is 4:22 PM.

7 MR. LAVIN: Could you read  
8 back the last question, please?

9 (Pertinent portion of the  
10 record is read.)

11 THE WITNESS: I've seen one.  
12 The one that was authorized where  
13 I was working. I don't know what  
14 other people working for the  
15 agency interrogating people in  
16 other places did. I don't know  
17 what was done to Zubaydah before I  
18 got there, but this is how it was  
19 done.

20 There is a tether anchored  
21 to the ceiling in the center of  
22 the detention cell. The detainee  
23 has handcuffs and they're attached  
24 to the tether in a way that they

1           can't lie down or rest against a  
2           wall.

3                   They're monitored to make  
4           sure they don't get edema if they  
5           hang on the cuffs too much. Well,  
6           they're monitored 24/7 anyway but  
7           it's -- after an hour or two, it's  
8           uncomfortable and you can't sleep,  
9           and that's the only method that I  
10          have observed used.

11 BY MR. LAVIN:

12           Q.     Have you ever heard the  
13          phrase "to stand the detainee up"?

14           A.     No.

15           Q.     Before these interrogations  
16          of Gul Rahman that we're discussing, how  
17          many different detainees had you  
18          interrogated?

19           A.     Zubaydah, and I had  
20          questioned and assessed this Belushi (ph)  
21          smuggler that they had sent me to Cobalt  
22          to see. They were thinking about using  
23          him in a specific way and they wanted me  
24          to talk to him.

1 Q. Was there anyone else?

2 A. No, I don't remember anybody  
3 else.

4 Q. So you can turn to tab 26.

5 MR. LAVIN: Is this 33?

6 THE WITNESS: I'll take  
7 better care of this one.

8 (Exhibit No. 33, Cable,  
9 Subject: Eyes only - Gul Rahman  
10 admits his identity, was marked  
11 for identification.)

12 BY MR. LAVIN:

13 Q. It's labeled 33, which is a  
14 cable, Subject: Eyes only - Gul Rahman  
15 admits his identity.

16 A. Okay.

17 Q. Did you perform an  
18 assessment after Gul Rahman admitted his  
19 identity?

20 A. An assessment?

21 Q. An assessment of Gul  
22 Rahman's resistance posture.

23 A. I don't know. I don't know  
24 when he admitted his identity. I've

1 Q. What I'm asking is, we have  
2 here a cable that has your name on it.

3 A. Yeah.

4 Q. And says that you --

5 A. It wasn't written me by.

6 Q. I understand that. But I  
7 understand that your role was to convey  
8 your impressions to the Chief of Base.

9 A. It was.

10 Q. And the Chief of Base would  
11 then write them up in cables.

12 A. That's correct.

13 Q. And generally, was it your  
14 impression that the Chief of Base would  
15 write accurately the information that you  
16 conveyed to him?

17 MR. SMITH: Objection.

18 THE WITNESS: I didn't -- I  
19 didn't see the cables. I don't  
20 know.

21 BY MR. LAVIN:

22 Q. Did you have a reason to  
23 suspect that the Chief of Base would  
24 misrepresent what you conveyed?



1 MR. SMITH: Objection.

2 THE WITNESS: Yeah. He  
3 misrepresented several things at  
4 the end.

5 BY MR. LAVIN:

6 Q. Did you have a sense that  
7 that was happening prior to Mr. Rahman's  
8 death?

9 A. No.

10 Q. Do you know if you've ever  
11 assessed a detainee to be using health  
12 and welfare behaviors?

13 A. Any detainee?

14 Q. Any detainee to be using  
15 health and welfare behaviors.

16 A. I'm sure during the time  
17 that I was working on the people I worked  
18 on, at least one of them used some form  
19 of health and welfare, but I don't know  
20 who or when. But I'm pretty confident  
21 that happened.

22 Q. And what is health and  
23 welfare behavior?

24 A. Any complaint dealing with

1 health and welfare.

2 Q. Could you give me just a  
3 couple examples?

4 A. I'm cold.

5 Q. And -- and how would you  
6 assess whether that complaint was a  
7 resistance technique?

8 A. If it wasn't cold, I would  
9 assume it was a resistance technique.

10 Q. And if it was -- if it was  
11 cold, could it be a resistance technique?

12 A. If it was cold, I would go  
13 get the doctor and everybody else and  
14 say, Is it too cold?

15 Q. Do you think it's possible  
16 that at the time that you interrogated  
17 Mr. Rahman, you found it difficult to  
18 know precisely how much of his behavior  
19 was feigned and how much was the result  
20 of his physical/psychological condition?

21 MR. SMITH: Objection.

22 THE WITNESS: Can I answer?

23 MR. SMITH: You can answer.

24 Yeah.

1 THE WITNESS: Not in the --  
2 not in the time that I spent with  
3 him. No.

4 BY MR. LAVIN:

5 Q. So at the time you spent  
6 with him, it was never difficult for you  
7 to tell whether his behavior was feigned  
8 or whether it was a result of his  
9 physical/psychological condition?

10 A. No.

11 Q. And how could you tell that?

12 A. It's a judgment call that  
13 you make as an interrogator. If you have  
14 any doubt, you go and get the experts, or  
15 you check the temperature or you -- you  
16 know, you do everything to make sure that  
17 they're safe and sound and you haven't  
18 broken some kind of protocol. So if --  
19 if you think there's something wrong, you  
20 follow through and you correct it; if  
21 not, then you proceed.

22 Q. And with Mr. Rahman, did  
23 there come a time when you did ask for  
24 some kind of medical assessment?

1 A. Multiple times.

2 Q. And did that assessment take  
3 place?

4 A. Not to my knowledge.

5 Q. Okay. Do you recall  
6 recommending an interrogation plan for  
7 Mr. Rahman before you left Cobalt?

8 A. I recall working with Chief  
9 of Base on an interrogation plan.

10 MR. LAVIN: If we could have  
11 tab 27. 34.

12 (Exhibit No. 34, Cable  
13 marked Eyes Only - For CTC/UBL -  
14 Mental Status Examination and  
15 Recommended Interrogation Plan For  
16 Gul Rahman, Bates US 1056 through  
17 1058, was marked for  
18 identification.)

19 BY MR. LAVIN:

20 Q. So the reporter has marked  
21 Exhibit No. 34, which is US Bates 1056 to  
22 1058, and it's a cable marked Eyes Only -  
23 For CTC/UBL - Mental Status Examination  
24 and Recommended Interrogation Plan For

1 Gul Rahman.

2 A. Okay.

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

5 A. No.

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

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

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

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

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

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

24 "There's no indication he

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

6                   Could you explain that  
7 sentence?

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

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

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

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

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

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

1 HVT-enhanced measures?

2 A. I did as an interrogator.

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

6 A. I didn't think so.

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

10 A. What type of assessment?

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

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

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

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

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

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

15 A. Yes.

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

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

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



1 didn't write it.

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

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

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

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

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

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

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

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

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

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

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

22                         MR. SMITH: Objection.

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

1  
2 CERTIFICATE  
3  
4

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

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




11  
12 Constance S. Kent

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

20 (The foregoing certification  
21 of this transcript does not apply to any  
22 reproduction of the same by any means,  
23 unless under the direct control and/or  
24 supervision of the certifying reporter.)

1 ACKNOWLEDGMENT OF DEPONENT

2

3 I, John Bruce Jessen   
4 hereby certify that I have read the  
5 foregoing pages, 1 - PGS, and that the  
6 same is a correct transcription of the  
7 answers given by me to the questions  
8 therein propounded, except for the  
9 corrections or changes in form or  
10 substance, if any, noted in the attached  
11 Errata Sheet.

12

13

14 \_\_\_\_\_  
15 WITNESS NAME DATE

16

17

18 Subscribed and sworn

19 to before me this

20 \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

21

22 My commission expires: \_\_\_\_\_

23

24

25 \_\_\_\_\_  
26 Notary Public

27

28

29

30

31

32

33

34

www.MagnaLS.com

866-624-6221

Seven Penn Center  
1635 Market Street – 8th Floor  
Philadelphia, PA 19103



1 -----  
 2 ERRATA  
 3 -----

| 4  | PAGE | LINE | CHANGE FROM            | CHANGE TO          | REASON                 |
|----|------|------|------------------------|--------------------|------------------------|
| 5  | 22   | 12   | rolls                  | roles              | wrong word written     |
| 6  | 33   | 6    | merging                | managing           | wrong word written     |
| 7  | 33   | 11   | resisting              | resistance         | wrong word written     |
| 8  | 47   | 20   | fit                    | fed                | wrong word written     |
| 9  | 85   | 20   | him                    | them               | wrong word written     |
| 10 | 187  | 2    | they                   | he                 | wrong word written     |
| 11 | 217  | 9    | cold                   | held               | wrong word written     |
| 12 | 257  | 8    | "not to be eliminated" | "to be eliminated" | additional "not" added |
| 13 | 257  | 17   | culutral               | culture            | wrong word written     |
| 14 | 262  | 6    | device                 | devise             | wrong word written     |
| 15 | 269  | 1    | approved               | approval           | wrong word written     |
| 16 |      |      |                        |                    |                        |
| 17 |      |      |                        |                    |                        |
| 18 |      |      |                        |                    |                        |
| 19 |      |      |                        |                    |                        |
| 20 |      |      |                        |                    |                        |
| 21 |      |      |                        |                    |                        |
| 22 |      |      |                        |                    |                        |
| 23 |      |      |                        |                    |                        |
| 24 |      |      |                        |                    |                        |

www.MagnaLS.com

866-624-6221

Seven Penn Center  
 1635 Market Street – 8th Floor  
 Philadelphia, PA 19103