

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

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SUHAIL NAJIM ABDULLAH AL : Civil Action No.:
SHIMARI, et al., : 1:08-cv-827
Plaintiffs, :
versus : Thursday, October 31, 2024
: Alexandria, Virginia
CACI PREMIER TECHNOLOGY, : Day 2 - a.m.
INC., : Pages 1-122
Defendant. :
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The above-entitled jury trial was heard before the
Honorable Leonie M. Brinkema, United States District Judge.
This proceeding commenced at 9:30 a.m.

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P R O C E E D I N G S

THE DEPUTY CLERK: Civil Action Number
1:08-cv-827, Al Shimari, et al. versus CACI Premier
Technology, Inc.

Would counsel please note their appearance for the
record, first for the plaintiffs.

MR. KIM: Good morning, Your Honor. Scott Kim for
plaintiffs.

THE COURT: Good morning.

MR. O'CONNOR: Good morning, Your Honor.
John O'Connor, Linda Bailey, Nina Ginsberg, and Joe McClure
for CACI.

THE COURT: All right. Good morning.

Just for the record, we have to interrupt the
testimony of Mr. Nelson because we need to have the timing
for the foreign witnesses carefully done. So we're going to
go forward.

And as I said -- or had my staff advise you all, I
don't want every morning to have some little nitpicking
issue in this case. Let's get it tried.

All right. Let's bring the jury in.

THE COURT SECURITY OFFICER: Yes, Judge.

Rise for the jury.

(Jury present at 9:32 a.m.)

THE COURT: Good morning, ladies and gentlemen.

1 I can never predict what the temperature is going
2 to be in the courtroom. This morning it's a bit cool. If
3 any of you start to be uncomfortable -- good, some of you
4 brought sweaters -- but let us know. All right. And it
5 does take a little bit of time to change the temperature.
6 So if you start to feel uncomfortable, or if the jury room
7 is either too warm or too cold, let my court security
8 officer know, and we'll try to do what we can to make you
9 comfortable.

10 I just want to check in. Did any of you bump into
11 any problems last night at all in following my instructions?
12 No. All right. Good.

13 Now, we had to change the order of things a little
14 bit today. You may recall when we finished yesterday, we
15 were in the middle of the direct examination of Mr. Nelson.
16 Because of the time difference between the United States and
17 Iraq, we had to reschedule the case today so that we could
18 take the testimony of one of the other plaintiffs who is in
19 Iraq testifying, you know, live now.

20 What time is it in Iraq, by the way, just so the
21 jury knows?

22 MR. KIM: Seven hours ahead, Your Honor.

23 THE COURT: So it's well into the afternoon. All
24 right. So that's why we are going to have to go in this
25 order. All right.

1 So our next witness is going to be the defendant,
2 Mr. Al-Zuba'e. And we'll start that. So he's going to be
3 visible to you on the big screen here or on the small
4 screens. If any of you want to change your position within
5 the jury box, feel free to do so. All right.

6 Are you ready to proceed?

7 Now we're going to interpret from here? The
8 interpreters are in this courtroom?

9 MR. KIM: Yes, Your Honor.

10 THE COURT: Then I think the best thing is to be
11 actually probably in the witness box.

12 And just for the record, we'll have both
13 interpreters reaffirmed today.

14 THE DEPUTY CLERK: Can you raise your right hand.

15 (Interpreters sworn in open court.)

16 THE DEPUTY CLERK: Thank you.

17 THE COURT: All right. Thank you.

18 MR. KIM: And we have one more copy of the
19 exhibits for Your Honor.

20 THE COURT: All right.

21 THE COURT SECURITY OFFICER: Whose copy is this?

22 MR. KIM: For the Court.

23 THE COURT: Don't I have a set?

24 THE DEPUTY CLERK: Is this the same set?

25 MR. KIM: Yes. We just thought the Court might

1 want two copies.

2 And does the witness need to be sworn in remotely
3 as well, Your Honor?

4 THE COURT: Yes.

5 THE DEPUTY CLERK: Can you raise your right hand.
6 Thereupon,

7 ASA'AD HAMZA HANFOOSH AL-ZUBA'E,
8 having been called as a witness on behalf of the plaintiffs
9 and having been first duly sworn by the Deputy Clerk, was
10 examined and testified as follows:

11 (Time noted: 9:35 a.m.)

12 DIRECT EXAMINATION

13 BY MR. KIM:

14 Q Okay. Good morning, Asa'ad.

15 Could you please state your full name for the
16 record.

17 A Asa'ad Hamza Hanfoosh.

18 Q And how old are you?

19 A Fifty-one years old.

20 Q And where do you currently live, Asa'ad?

21 A Baghdad, Abu Ghraib.

22 Q Do you have children, Asa'ad?

23 A Yes.

24 Q And how about grandchildren? Do you have
25 grandchildren, Asa'ad?

1 A Yes. Yes.

2 Q What is your religion?

3 A Muslim.

4 Q What is the highest level of school you've completed,
5 Asa'ad?

6 A Third grade.

7 Q Are you able to read and write?

8 A No.

9 Q What do you currently do for a living, Asa'ad?

10 A I have a store where I sell fruits and vegetables.

11 Q And going back to 2003, what did you do for a living,
12 Asa'ad?

13 A I was a taxi driver, and I was also dealing with
14 livestock.

15 Q And sticking to November 2003, Asa'ad, were you
16 arrested?

17 A Yes.

18 Q After you were arrested, where were you taken, Asa'ad?

19 THE INTERPRETER: Sorry. The interpreter needs a
20 repetition.

21 THE WITNESS: Abu Ghraib jail.

22 BY MR. KIM:

23 Q And when you first arrived to Abu Ghraib prison, what
24 was the first room you were taken to?

25 A Computer.

1 Q And upon arriving to this computer room, who else was
2 in the room?

3 A There were people whom I did not know.

4 Q And were there any Americans inside of the room,
5 Asa'ad?

6 A Yes.

7 Q What were they wearing?

8 A Civilian.

9 Q How long were you held in this computer room, Asa'ad?

10 A Three days.

11 Q Were you mistreated while inside of this computer room,
12 Asa'ad?

13 A Yes.

14 Q Can you describe how you were mistreated, Asa'ad?

15 A They told me take off my clothes, held my penis. He
16 held it for me until I came.

17 Q And you're saying that they held your penis.

18 Who are "they"?

19 A Civilian people.

20 Q And were you instructed to do anything by these
21 civilian people, Asa'ad?

22 A Yes.

23 Q What did they instruct you to do?

24 A Masturbate.

25 Q And when they told you to do this, what happened next,

1 Asa'ad? What did you do?

2 A I didn't do anything. I was crying, screaming, I was
3 shaking.

4 MR. KIM: And I'd like to now show the plaintiff
5 first just a photo marked as Plaintiffs' Exhibit 168.

6 THE COURT: Any objection to 168?

7 MS. BAILEY: Objection to relevance and prejudice.

8 THE COURT: I'll take a look at it.

9 MS. BAILEY: Just to be clear, the relevance
10 objection is because it's not Mr. Asa'ad in the photo, nor
11 is the soldier in the photo someone from the computer room.

12 MR. KIM: And, your Honor, if I can clarify.

13 We will not be showing any photos today that we're
14 going to be arguing are Mr. Al-Zuba'e. We are showing
15 photos that are accurate representations of similar things
16 that happened to him.

17 THE COURT: I don't think this one is necessary,
18 so overruled. I'm sorry, I'm going to sustain the
19 objection.

20 If it's not a picture of what happens to this
21 individual or the description is such that it's not clear to
22 the jury what was described, we don't need the pictures.

23 All right. Let's move on.

24 MR. KIM: Understood, Your Honor.

25 BY MR. KIM:

1 Q So, Mr. Al-Zuba'e, you just described being forced to
2 masturbate and other civilians touching your genitals.

3 Can you describe to the jury how this all made you
4 feel?

5 THE INTERPRETER: The interpreter needs a
6 repetition for the last word.

7 THE WITNESS: I was scared, I was -- I was scared,
8 I was screaming, I was crying. I said too bad, how could
9 this happen to me.

10 BY MR. KIM:

11 Q Okay. And finally at the conclusion of this incident,
12 Asa'ad, where did you go next?

13 A They sent me back to the same room.

14 Q And after the computer room, Asa'ad, where did you go
15 next?

16 A Then they sent me to the jail -- to the jail cells.

17 Q And, Asa'ad, how were you brought from the computer
18 room to the cells?

19 A They put a bag on my head, they put handcuffs on my
20 arms, and they got me inside a car.

21 Q How were you removed from the car, Asa'ad?

22 A They hit me, they tied -- they pulled me from --

23 THE INTERPRETER: I'm sorry. The interpreter
24 needs a repetition.

25 THE WITNESS: So they pulled me from the back,

1 from around my neck, they hit me, they were screaming at me,
2 I was scared, and they took me to the jail cell.

3 BY MR. KIM:

4 Q And, Asa'ad, you were doing motions with your hands,
5 you were placing them just below your neck.

6 Can you describe to the jury in more detail why
7 you were doing that motion with your hands?

8 A So as the bag was on top of my head, it was twisted,
9 twisted around my neck.

10 Q Was there something around your neck, Asa'ad?

11 A It was a plastic bag on my head.

12 Q And how long were you dragged for from this car to the
13 cells?

14 A I swear, I do not recall exactly.

15 Q Okay. And eventually, Asa'ad, you said you were
16 brought to the cells.

17 MR. KIM: And I'd like to now show Plaintiffs'
18 Exhibit 206C, which was previously admitted at General Fay's
19 deposition.

20 THE COURT: Any objection to 206C?

21 MS. BAILEY: No objection, Your Honor.

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

23 (Plaintiffs' Exhibit Number 206C admitted into evidence.)

24 BY MR. KIM:

25 Q Is this where you now were, Asa'ad?

1 A Yes. I was downstairs, not upstairs.

2 Q And just to be clear, Asa'ad, do you have a name for
3 this building?

4 A Cells.

5 Q And so after you were brought into this building,
6 Asa'ad, from the vehicle, what happened next?

7 A They were hitting me, screaming at me, I was crying, I
8 was extremely scared.

9 MR. KIM: We can bring this photo down now as
10 well.

11 BY MR. KIM:

12 Q And at a certain point, Asa'ad, were you moved from the
13 first floor to a different room?

14 A Are you talking about the same time when they got me?

15 Q Yes, Asa'ad.

16 I'm asking after you arrived -- after you first
17 arrived to the cells from the first floor, were you
18 eventually moved to a separate room?

19 THE INTERPRETER: The interpreter is not able to
20 hear very well.

21 THE COURT: This is the best we've got for the
22 technology. We'll just have to take it more slowly.

23 THE INTERPRETER: Interpreter apologizes. The
24 interpreter needs a repetition.

25 THE WITNESS: They stripped me -- they took me,

1 they stripped me naked, they took me up to the shower.

2 BY MR. KIM:

3 Q And, Asa'ad, after they stripped you naked and took you
4 up to the shower room, what happened inside the shower room?

5 A So he -- he choked me, he took the bag from my head,
6 and he pushed me in, and the place was cold, and I was
7 crying inside the shower.

8 Q And were you forced to shower yourself inside of the
9 shower room?

10 A Yes. I was scared, I was screaming, I was crying. The
11 weather inside was very cold, it was freezing.

12 Q And how did that water feel on your skin, Asa'ad?

13 A It was extremely cold. Freezing.

14 Q What time of year was it, Asa'ad?

15 A It was around January 11th when they took me.

16 Q And, Asa'ad, did anyone make any threats to you while
17 you were inside of the shower room?

18 A He pushed me inside, he started screaming at me, and he
19 said we are going to rape you today.

20 Q Did you believe him, Asa'ad?

21 A Yes, I believed him. I was crying, I was screaming. I
22 was very scared.

23 Q Were any females present?

24 A Yes. There were females present, yes.

25 Q Asa'ad, during this shower, did you ever try to leave

1 the room?

2 A Yes. I was trying to leave the room, and I was pushed
3 in. The water was freezing.

4 Q How long did this incident in the shower room last?

5 A I had to finish two bars of soap on my head. Until I
6 finished them, then I was able to leave.

7 Q And, Asa'ad, when you were finally able to leave, what
8 happened next?

9 A They took me to the same place.

10 Q And by the same place, do you mean the hallway
11 downstairs?

12 A Yes.

13 Q And what happened here?

14 THE INTERPRETER: Interpreter needs repetition for
15 the first word.

16 THE WITNESS: I was crawling in the hallway on my
17 chest, my arms and my stomach. I was screaming, crying. I
18 was very scared.

19 BY MR. KIM:

20 Q Why were you crawling on your stomach up and down the
21 hallway, Asa'ad?

22 A He's telling me to crawl. I was scared.

23 Q Were you clothed?

24 A No, I was naked.

25 Q And as you were being forced to crawl up and down your

1 stomach, Asa'ad, can you describe in a bit more detail what
2 else was happening as you were doing that?

3 A How do you want me to explain?

4 Q What were the other people in the room doing as you
5 were crawling up and down the hallway, Asa'ad?

6 A They were screaming at me, yelling at me, hitting at
7 me, and I was crying and screaming.

8 Q And so, Asa'ad, what condition was your body in? Did
9 it cause any injuries to you being forced to crawl up and
10 down the hallway on your stomach as you were being hit?

11 A My body, my whole body was bleeding, blood, blood from
12 my arms, from my chest, from my legs.

13 Q And, Asa'ad, how long were you made to do this?

14 A I swear, I do not recall.

15 Q That's okay, Asa'ad.

16 Aside from being forced to crawl up and down the
17 hallways, what else happened to you during this incident in
18 the hallway?

19 A I had my arms out like that, I had them open and like
20 that for -- while I was standing up.

21 MR. KIM: And let the record show that
22 Mr. Al-Zuba'e spread his arms out on the video.

23 And I'd like to show now what's been marked as
24 Plaintiffs' Exhibit 161D to the plaintiff only at this time.
25 And I would just like to ask him if this is similar to what

1 happened to him during this incident in the hallway.

2 THE COURT: You said 161 ...

3 MR. KIM: D, as in dog.

4 THE WITNESS: Yes.

5 THE COURT: I'm going to let 161D in.

6 MS. BAILEY: I'll just note our objection for the
7 record.

8 THE COURT: All right.

9 (Plaintiffs' Exhibit Number **161D** admitted into evidence.)

10 BY MR. KIM:

11 Q And, Asa'ad, how long were you forced to pose in this
12 manner?

13 A I swear, I do not recall how long.

14 Q What was going through your mind as you were being made
15 to do this?

16 A I was extremely scared, I was screaming, I was crying.

17 MR. KIM: And we can bring this down now.

18 BY MR. KIM:

19 Q Asa'ad, did anything else happen to you during this
20 incident in the hallway that we have not discussed?

21 A I was standing, and I had to put my hands up like that.

22 MR. KIM: And I'd like to now move into evidence
23 Plaintiffs' Exhibit 161C, which was admitted at Sergeant
24 Frederick's deposition.

25 THE COURT: All right. 161C is in.

1 (Plaintiffs' Exhibit Number 161C admitted into evidence.)

2 MR. KIM: And can we please bring that up.

3 BY MR. KIM:

4 Q Asa'ad --

5 THE INTERPRETER: The interpreter needs a
6 repetition.

7 THE WITNESS: Yes. It was just like this one.

8 BY MR. KIM:

9 Q What were you standing on? What's being depicted here?

10 MR. KIM: And just to be clear, when I say what
11 were you standing on, we're not saying this is Asa'ad in the
12 photo, but this is something similar that happened to him.

13 BY MR. KIM:

14 Q Asa'ad, what were you forced to stand on?

15 A They're boxes for food.

16 Q And to be forced to stand in a manner similar to this,
17 did that cause you any physical discomfort?

18 A Yes. My body was hurting, I was screaming, I was
19 crying.

20 Q And do you recall how long you were made to stand like
21 this, Asa'ad?

22 A No. I swear, I do not recall.

23 MR. KIM: And we can bring this photo now down.

24 BY MR. KIM:

25 Q And again, Asa'ad, was there anything else that you

1 recall that happened to you during this incident in the
2 hallway that we have not yet discussed?

3 A It's been a long time, I do not remember.

4 Q Thank you, Asa'ad.

5 So after this incident in the hallway was finally
6 over, where were you taken next?

7 A In a jail cell.

8 MR. KIM: And I'd like to now move into evidence
9 Plaintiffs' Exhibit 206E, as in echo, which was admitted at
10 General Fay's deposition.

11 MS. BAILEY: No objection.

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

13 (Plaintiffs' Exhibit Number **206E** admitted into evidence.)

14 MR. KIM: If we could please bring that photo up.

15 THE COURT: 206E.

16 THE WITNESS: Yes. It's exactly like this one.

17 BY MR. KIM:

18 Q And so, Asa'ad, this was the cell that you were taken
19 to next?

20 A Yes. Yes.

21 Q Can you describe to the jury what happened to you
22 inside of here?

23 A I was scared, I had a bag on my head, I was sleeping on
24 my stomach, it was extremely cold, I was screaming.

25 Q Were you still naked, Asa'ad?

1 A Yes.

2 Q And at this point, you also had a bag on your head; did
3 I hear you correctly?

4 A Yes.

5 Q Were you restrained in any way?

6 A Iron handcuffs.

7 Q And how long were you held inside of here, Asa'ad?

8 A Until morning.

9 Q And so can you describe in a bit more detail, Asa'ad,
10 what happened to you as you were handcuffed naked with the
11 hood over your head inside of this cell overnight?

12 A I was screaming, crying just like a little child when
13 he cries.

14 Q Was there a toilet inside of this room, Asa'ad?

15 A No, there was none. I had to do it on myself.

16 Q Okay. And so, Asa'ad, after you were finally let go
17 from this room, what happened next?

18 A They took me to another jail cell.

19 MR. KIM: And if we could now show Plaintiffs'
20 Exhibit 206B, as in beta, which was admitted at General
21 Fay's deposition?

22 THE COURT: All right.

23 MS. BAILEY: No objection, Your Honor.

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

25 (Plaintiffs' Exhibit Number 206B admitted into evidence.)

1 BY MR. KIM:

2 Q And were you moved to one of the cells shown here,
3 Asa'ad?

4 A Yes. Yes.

5 Q And after being moved to one of these cells, Asa'ad,
6 were you brought to an interrogation at some point?

7 A They came in the evening to me.

8 MR. KIM: We can bring this photo down now.

9 BY MR. KIM:

10 Q And how were you brought to your first interrogation,
11 Asa'ad?

12 A They put a bag on my head, they put -- they handcuffed
13 my hand, and they would twist me down the hallway to the
14 left and to the right.

15 Q And who was it? Can you describe who it was that was
16 doing this to you?

17 A The guard.

18 Q And this guard brought you to a separate room where the
19 interrogation took place, did I understand you correctly?

20 A Yes.

21 Q And can you describe who the interrogators were, what
22 they looked like?

23 A Three civilians.

24 Q How could you tell they were civilians?

25 A When they got me inside, they would take the bag off my

1 head.

2 Q And what were they wearing?

3 A Civilians.

4 Q Okay. And during the interrogation, where was the
5 guard who brought you there?

6 THE INTERPRETER: Sorry. The interpreter needs a
7 repetition.

8 MR. KIM: Sure.

9 BY MR. KIM:

10 Q During the interrogation, where was the guard who
11 brought you there?

12 A Outside the room.

13 Q And at the end of the interrogation, did you see the
14 civilian interrogators interact with anybody else?

15 A Yes. He went outside, talked to the guard, and then he
16 came back in.

17 Q Okay. And after the civilian interrogator spoke to the
18 guard, what happened next?

19 THE INTERPRETER: Sorry. The interpreter needs a
20 repetition.

21 THE WITNESS: He brought me back to the same jail
22 cell.

23 BY MR. KIM:

24 Q And what happened upon being brought back to your cell?

25 A He told me to turn around -- he told me to turn

1 around --

2 THE INTERPRETER: Sorry. The interpreter needs a
3 repetition.

4 THE WITNESS: He told me to turn around, slapped
5 me against the wall, he hit me, and I fell to the ground,
6 and then he told me to stand up.

7 BY MR. KIM:

8 Q And, Asa'ad, you said he hit you.

9 Did that cause you any physical injuries?

10 A Yes. My head. I had swelling in my head.

11 Q And then, Asa'ad, you said he told you to stand up, and
12 I think I saw you motion and put your two hands above your
13 head.

14 Why were you doing that?

15 A Then he handcuffed me to the bed. You see my wrist
16 right now was swollen from being handcuffed.

17 MR. KIM: And let the record reflect he was
18 holding both hands high above his head.

19 BY MR. KIM:

20 Q And what portion of the bed were you handcuffed to,
21 Asa'ad?

22 A The very top one up.

23 Q And so as you were cuffed to the very top of the bed,
24 where were your feet?

25 THE INTERPRETER: The interpreter needs a

1 repetition.

2 THE WITNESS: My feet were barely touching the
3 floor of the cell.

4 BY MR. KIM:

5 Q Asa'ad, how long were you kept in this position?

6 A I stayed the whole night until the next day to 4 p.m.,
7 that's when he came and took off the handcuffs.

8 Q And while you were cuffed in this position until the
9 next day, did you have to use the restroom, Asa'ad?

10 A I was screaming, crying, yelling. There was no answer.
11 There was nothing, so I had to do it on myself.

12 Q And, Asa'ad, after you were finally uncuffed, when were
13 you next interrogated?

14 THE INTERPRETER: Sorry. The interpreter needs a
15 repetition.

16 BY MR. KIM:

17 Q After you were finally uncuffed, when were you next
18 interrogated?

19 A They took -- it was the same. It was my room, the same
20 room.

21 Q So they brought you to the same interrogation room, am
22 I understanding you correctly, Asa'ad?

23 A No. I stayed in my room, in my jail cell.

24 Q Okay. And were you interrogated a second time, Asa'ad?

25 A Yes.

1 Q And how were you brought there?

2 THE INTERPRETER: I'm sorry?

3 BY MR. KIM:

4 Q How were you brought to the second interrogation?

5 A Same thing. He put a bag on my head, handcuffed me, he
6 turned me to the right, turned me to the left, and then he
7 got me to the room, and then he took the bag off my head.

8 Q And when the bag was taken off your head, who was
9 inside the room with you?

10 A Three civilians.

11 Q And during this second interrogation, Asa'ad, where was
12 the guard who brought you there?

13 A Outside the room.

14 Q Okay. And at the end of the second interrogation,
15 Asa'ad, did you see the civilian interrogators interact with
16 anyone at the end?

17 A After two days, the same interrogators came to talk to
18 me, and then they started talking to the guard.

19 Q Okay. Asa'ad, so if I'm understanding you correctly,
20 you said that you saw the civilian interrogators talk to the
21 guards at the end of the second interrogation?

22 A Yes.

23 Q And then I think you said you were brought back to your
24 cell?

25 A Yes. Yes.

1 Q Okay. And when you got -- when you were back at your
2 cell, what happened next?

3 THE INTERPRETER: Sorry. The interpreter needs a
4 repetition.

5 BY MR. KIM:

6 Q When you were back inside of your cell, what happened
7 next?

8 A After three days, maybe two days, the same
9 interrogators came to my room, and they talked to the guard,
10 and they took all my belongings outside.

11 Q And what belongings did they take from your cell?

12 A Everything. Everything. My clothes, my bed.
13 Everything was taken out.

14 Q What were you left with?

15 A I had nothing. Nothing was left with me.

16 Q How long were you left without your belongings?

17 A Three days.

18 Q What did you sleep on during those three days?

19 A I did not sleep. I did not sleep. I got sick. I was
20 crying, I was screaming.

21 Q Were you able to keep warm at all?

22 A No. I was screaming, I was crying, I got sick, I had
23 to see a doctor.

24 Q And, Asa'ad, you said you were provided your things
25 back at the end of those three days; did I hear you

1 correctly?

2 A Yes.

3 Q And what happened after you were given your things
4 back?

5 A He threw my belongings, and he left.

6 Q Were you interrogated a third time?

7 A Yes.

8 Q And how were you brought to the third interrogation?

9 (Lights went off at Mr. Al-Zuba'e's location.)

10 MR. KIM: We can keep going. We don't know how
11 long it will be.

12 THE WITNESS: Third interrogation?

13 BY MR. KIM:

14 Q How were you brought to your third interrogation?

15 A Same way. They put a bag on my head, they handcuffed
16 me, they turned me around two or three times, they took me
17 to an open place. It was cold, and it was raining.

18 Q Did the cold temperature and the rain, did that cause
19 you any discomfort?

20 A My stomach was hurting me, I was crying, I was
21 screaming.

22 Q And at the conclusion of this interrogation, Asa'ad,
23 were you brought back to your cell?

24 A Yes.

25 Q Sorry, Asa'ad. To backtrack for a moment, during this

1 third interrogation, what were the interrogators wearing?

2 A Civilians.

3 THE COURT: Was it the same three civilians who
4 had done the first two interrogations?

5 THE WITNESS: No. No. Different ones. Different
6 ones.

7 BY MR. KIM:

8 Q Asa'ad, were you interrogated a fourth time?

9 A Yes. Yes.

10 Q And how were you brought to the fourth interrogation?

11 A Same way. They put a bag on my head, handcuffed me,
12 they turned me around two or three times, they took me
13 upstairs to the second floor.

14 Q And who was present during this fourth interrogation?

15 A Also three civilians.

16 Q Were any threats made during this interrogation?

17 THE INTERPRETER: I'm sorry. The interpreter
18 needs a repetition.

19 BY MR. KIM:

20 Q Were any threats made during this interrogation?

21 A Yes. Yes. Yes. Yes.

22 Q What threats were made to you, Asa'ad?

23 A They said we'll bring your family and we'll rape them.

24 Q Did you believe them, Asa'ad?

25 A Yes. Yes. I was crying, I was screaming.

1 Q Were you otherwise harmed during this interrogation,
2 Asa'ad?

3 A Yes.

4 Q In what way?

5 A He told me to stand up, he threw me against the wall,
6 and I fell down.

7 Q Who threw you against the wall, Asa'ad?

8 A Civilians.

9 Q Was it one of the interrogators?

10 THE INTERPRETER: I'm sorry. The interpreter
11 needs a repetition.

12 THE WITNESS: One of them slapped me against the
13 wall, and I fell down.

14 BY MR. KIM:

15 Q And what happened at the conclusion of this
16 interrogation, where were you brought next?

17 A They brought me back to the same jail cell.

18 Q Do you recall any other interrogations while you were
19 held inside the cells?

20 A How could I remember?

21 Q Okay. While inside the cells, were you ever mistreated
22 with dogs?

23 A Yes.

24 Q Were you ever bit by a dog?

25 A At night.

1 Q Where were you when the dog bit you?

2 A In the hallway.

3 Q Were you clothed?

4 A No. No. I was naked.

5 MR. KIM: I'd like to now show the plaintiff,
6 Plaintiffs' Exhibit 32, and this should only be shown to the
7 plaintiff first.

8 BY MR. KIM:

9 Q Is this similar to how a dog was used on you in the
10 hallway, Asa'ad?

11 THE COURT: Hold on a second.

12 Is there any objection to 32?

13 MS. BAILEY: Yes. Object to relevance and
14 prejudice. It's not this plaintiff, it's not the same
15 individuals.

16 THE COURT: Again, to the extent the description
17 needs more clarification, I'm going to permit it. On this
18 one, I will permit, so Plaintiffs' 32 is in.

19 (Plaintiffs' Exhibit Number 32 admitted into evidence.)

20 THE COURT: Again, this is not a picture of this
21 plaintiff, but it's meant to demonstrate the type of
22 experience that he is describing.

23 MR. KIM: Thank you, Your Honor.

24 THE WITNESS: Yes.

25 BY MR. KIM:

1 Q Asa'ad, can you describe to the jury just what was
2 going through your mind as the dog was used on you in this
3 way?

4 THE INTERPRETER: Sorry. The interpreter needs a
5 repetition.

6 THE WITNESS: I was screaming, I was yelling,
7 screaming, I was very scared, I was terrified.

8 THE COURT: Did you say that the dog actually bit
9 you?

10 THE WITNESS: Yes.

11 THE COURT: Where did it bite?

12 THE WITNESS: My arms and my legs. Until now, I
13 have -- it shows on my body.

14 MR. KIM: Thank you, Your Honor.

15 And we can bring the photo down now.

16 BY MR. KIM:

17 Q Was a dog ever used on you other than this incident in
18 the hallway?

19 A Yes. But the dog did not bite me. I was handcuffed to
20 the jail cell, and the dog would come close to me, and it
21 was pulled back. It did not bite me.

22 MR. KIM: And can we now -- I'd like to move into
23 evidence Plaintiffs' Exhibit 161B, as in boy, which was
24 admitted at Sergeant Frederick's deposition.

25 THE COURT: All right. I assume no objection.

1 MS. BAILEY: No objection, Your Honor.

2 THE COURT: All right. 161D, as in dog --

3 MR. KIM: B.

4 THE COURT: I'm sorry B, as in boy is in.

5 (Plaintiffs' Exhibit Number **161B** admitted into evidence.)

6 BY MR. KIM:

7 Q Asa'ad, was this similar to how you were chained to the
8 bars of your cell when a dog was used on you the second
9 time?

10 A Yes. Yes.

11 MR. KIM: Okay. And we can take that down now.
12 Thank you.

13 BY MR. KIM:

14 Q And so, Asa'ad, we've talked about what's happened to
15 you as far as direct abuse.

16 But did you ever see other detainees being abused?

17 A Yes.

18 Q What other abuse did you see, Asa'ad?

19 A They would pile people on top of each other.

20 Q Where were you when you saw this happen?

21 A I was in my jail cell.

22 MR. KIM: Okay. And I'd like to now move into
23 evidence Plaintiffs' Exhibit 206A, as in alpha, which I
24 believe has been previously admitted at a deposition.

25 MS. BAILEY: No objection, Your Honor.

1 THE COURT: All right. 206A is in.

2 (Plaintiffs' Exhibit Number 206A admitted into evidence.)

3 THE COURT: Is there a question?

4 MR. KIM: I'm just waiting for the photo to come
5 up, Your Honor.

6 BY MR. KIM:

7 Q And so, Asa'ad, is this what you saw, or did you see
8 something similar to this while inside your cell?

9 A I saw the same thing.

10 Q What was your reaction to seeing this?

11 A I was shaking, I was shivering, I was scared.

12 Q Were you afraid that something similar might happen to
13 you?

14 A Yes. Yes. I was scared. I was extremely scared.

15 Q And if -- do you recognize the guard, the male guard in
16 this photo?

17 A Yes. This guard, his shift was the night shift.

18 Q What do you recognize him from, and why does he stand
19 out to you?

20 THE INTERPRETER: Sorry?

21 MR. KIM: Sure. What stands out to him about this
22 gentleman.

23 THE WITNESS: I was scared. I was scared. My
24 whole body was shivering. I was extremely scared.

25 BY MR. KIM:

1 Q Asa'ad, did the male guard in this photo, did he abuse
2 you?

3 A Yes.

4 Q In what ways?

5 THE INTERPRETER: The interpreter needs a
6 repetition.

7 THE WITNESS: He took me to the bathroom. He said
8 I'll rape you. I will do feeky feeky (phonetic) on you.

9 BY MR. KIM:

10 Q Do you remember him abusing you in any other ways,
11 Asa'ad?

12 A He slapped me against the wall.

13 Q Okay, Asa'ad.

14 MR. KIM: We can take this photo down now.

15 BY MR. KIM:

16 Q Did you ever see any other forms of abuse of other
17 detainees, Asa'ad?

18 A I do not recall.

19 Q Okay. Asa'ad, I'd like to now talk a bit about the
20 effect of being inside the cells at Abu Ghraib has had on
21 you.

22 How have your relationships with friends and
23 family changed, if at all?

24 A I have no friends.

25 Q And before Abu Ghraib, before your time inside the

1 cells at Abu Ghraib, did you have friends?

2 A Yes.

3 Q And why is it that you no longer see them?

4 And so, Asa'ad, I'll just briefly repeat my
5 question.

6 Why is it that you think you no longer have any
7 relationships with your friends?

8 A Emotionally, I'm doing very bad. I don't want to see
9 anyone, don't want to deal with anyone. When I left the
10 jail, I was done.

11 Q Okay, Asa'ad. And can you describe in any more detail
12 what effect your time inside the cells has had on you from a
13 mental point of view?

14 THE INTERPRETER: The interpreter needs a
15 repetition.

16 THE WITNESS: I was -- emotionally I'm doing
17 extremely bad, even with my own family. I don't have a
18 relationship with them.

19 BY MR. KIM:

20 Q Do you have any lasting physical effects, Asa'ad?

21 A Yes.

22 Q Can you describe those to the jury?

23 A So my wrist right now is still swollen, I still have
24 the marks from the dog bite, I have problems with my arm,
25 lifting up my arm.

1 MR. KIM: Okay, Asa'ad. Thank you very much for
2 your time today. That's the extent of the direct
3 examination.

4 THE COURT: Do we need to change interpreters, or
5 are you going to do the whole thing?

6 THE INTERPRETER: Your Honor, I speak Iraqi, so I
7 have to do the whole thing.

8 THE COURT: Ah, I understand.

9 THE INTERPRETER: She's my backup. Thank you,
10 Your Honor.

11 THE COURT: All right. Thank you.

12 All right. Go ahead.

13 MS. BAILEY: Thank you, Your Honor. We have
14 binders for the Court.

15 CROSS-EXAMINATION

16 BY MS. BAILEY:

17 Q Good morning, Mr. Al-Zuba'e.

18 THE COURT: Wait. Wait. One second.

19 BY MS. BAILEY:

20 Q Good morning, Mr. Al-Zuba'e. Although I understand
21 it's afternoon where you are.

22 A Hello.

23 Q My name's Linda Bailey, and I have a few more questions
24 for you today.

25 A Welcome to you.

1 Q Thank you.

2 I want to start by clarifying something. I
3 believe you testified on your direct examination that you
4 were brought to Abu Ghraib in January.

5 Is it more accurate to say that you were brought
6 to Abu Ghraib in November?

7 A I don't -- I swear, I don't recall. I think it might
8 have been November.

9 MS. BAILEY: Okay. At this time, Your Honor, I
10 would like to admit page 5 from Defense Exhibit 30, which is
11 the detainee file that the parties have agreed is
12 admissible.

13 MR. KIM: No objection, Your Honor.

14 THE COURT: All right. Just page 5 of Defense
15 Exhibit 30 is in.

16 (Defense Exhibit Number 30, page 5 admitted into evidence.)

17 MS. BAILEY: Thank you, Your Honor.

18 And if we could put page 5 on the screen and focus
19 at the top two lines.

20 BY MS. BAILEY:

21 Q Mr. Al-Zuba'e, does the date of capture of
22 November 5th, 2003 sound accurate to you?

23 A I swear, I do not recall.

24 MS. BAILEY: Okay. We can take that down. Thank
25 you.

1 Your Honor, at this time I would also like to
2 admit Plaintiffs' Exhibit 20, which the parties have
3 consented as admissible.

4 THE COURT: Again, no objection; correct?

5 MR. KIM: Correct.

6 THE COURT: All right. 20 is in.

7 MS. BAILEY: Thank you, Your Honor.

8 (Plaintiffs' Exhibit Number 20 admitted into evidence.)

9 BY MS. BAILEY:

10 Q Mr. Al-Zuba'e, do you remember giving a statement about
11 your treatment at Abu Ghraib prison to investigators while
12 you were still imprisoned there?

13 A When I left the jail cell is when I was interrogated.

14 Q I'm talking about a separate incident, Mr. Al-Zuba'e.
15 I'm talking about when investigators came and talked to you
16 and asked you about whether you had been abused.

17 A Yes.

18 MS. BAILEY: Okay. If we could focus in on the
19 paragraph, if that's possible.

20 BY MS. BAILEY:

21 Q Now, these investigators, they were investigating the
22 detainee abuse that was happening at Abu Ghraib prison; is
23 that right?

24 A Yes.

25 Q The date on this document is January 17th, 2004.

1 Do you have any reason to disagree with that date?

2 A I swear, I do not recall.

3 Q Okay. Now, this was the first time that you reported
4 to someone about how you had been mistreated; is that right?

5 A When I was inside the tents after I left the jail cell
6 is when the interrogators came and interrogated us.

7 Q Okay. Obviously you knew it was important to be
8 honest?

9 A Yes.

10 Q And you knew it was important to tell them everything
11 that had happened to you?

12 A Yes.

13 Q Why didn't you tell those investigators about the
14 horrible assault you suffered in the computer room?

15 A I was scared. I just wanted to leave. I was afraid
16 that there might have been -- that might cause a problem.

17 Q You were examined by Dr. Stephen Xenakis about 11 years
18 ago in Iraq; is that correct?

19 A Yes.

20 Q He is your paid expert witness?

21 THE INTERPRETER: Sorry. The interpreter --

22 BY MS. BAILEY:

23 Q He is your paid expert witness?

24 THE INTERPRETER: The interpreter needs an
25 interpretation.

1 You said paid expert witness?

2 MS. BAILEY: Yes.

3 THE INTERPRETER: Okay.

4 BY MS. BAILEY:

5 Q Do you understand the question, Mr. Al-Zuba'e?

6 A I don't know.

7 Q Do you understand that Mr. -- or excuse me, Dr. Xenakis
8 was paid to evaluate you for purposes of this litigation?

9 MR. KIM: Objection, Your Honor. Relevance.

10 THE COURT: Well, the medical examination would be
11 relevant. Whether he's paid or not -- let's move this
12 along, please.

13 MS. BAILEY: Okay.

14 THE COURT: Do you remember being examined by a
15 doctor named Dr. Xenakis?

16 THE WITNESS: No, I do not recall. I do not
17 recall.

18 BY MS. BAILEY:

19 Q Sir, didn't you just testify a few minutes ago that you
20 did recall being examined by Dr. Xenakis about 11 years ago
21 in Iraq?

22 THE INTERPRETER: The interpreter needs a
23 repetition.

24 THE WITNESS: Yes. He came to examine me in Iraq.
25 Yes.

1 BY MS. BAILEY:

2 Q Okay. You didn't tell Dr. Xenakis about being
3 assaulted in the computer room; did you?

4 A I told him. I told him. I told him everything.

5 Q Okay. You were examined by Dr. Payne-James in Malaysia
6 in February of this year; right?

7 A Yes.

8 Q You didn't tell Dr. Payne-James about being assaulted
9 in the computer room; did you?

10 A Yes, I told him. I told him.

11 Q In fact, didn't you actually tell him that no one hurt
12 you or any of the detainees who were in that computer room?

13 A No, that didn't happen. I told them. I told them so
14 many things.

15 Q When he specifically asked you if you had been sexually
16 assaulted at Abu Ghraib, you told him you were not; correct?

17 A No. Just as I told you guys, I told him.

18 Q You testified today that all of you interrogators were
19 civilian; correct?

20 A Yes.

21 Q In your statement to investigators that you gave while
22 you were in prison, which is still on the screen, you didn't
23 mention any civilians.

24 If civilians hurt you, why didn't you say so?

25 A What do you want me to say, how the civilians are?

1 Q Sir, I'm asking you why you didn't mention any
2 civilians in your statement to investigators?

3 A Which investigators?

4 Q I'll move on.

5 You answered interrogatories when you were in
6 Turkey in 2012; is that correct?

7 A Yes, I do recall, yes.

8 MS. BAILEY: Okay. At this time I would like to
9 show the witness, and not the jury, Defense Exhibit 11 at
10 page 27.

11 BY MS. BAILEY:

12 Q Do you see this document, sir?

13 THE COURT: There's no objection to this; is
14 there?

15 MR. KIM: It should not come into evidence,
16 though, Your Honor.

17 THE COURT: All right. Let's see. Page what, 27?

18 MS. BAILEY: Page 27.

19 THE COURT: All right.

20 MS. BAILEY: I'm going to ask if this is his
21 signature.

22 MR. KIM: No objection, Your Honor. We withdraw.

23 THE COURT: So this whole exhibit is going in
24 then?

25 MS. BAILEY: No, Your Honor. I would just like

1 page 27, and then I have a specific paragraph.

2 THE COURT: All right. All right.

3 Is that his signature?

4 THE WITNESS: Yes.

5 MS. BAILEY: Thank you. And we can publish that
6 to the jury now.

7 (Defense Exhibit Number 11, page 27 admitted into evidence.)

8 MS. BAILEY: All right. I'd like to go to this
9 same exhibit at page 3, paragraph 5.

10 BY MS. BAILEY:

11 Q Sir, if only civilian interrogators interrogated you,
12 then why did you mention a male interrogator wearing a
13 military uniform as one of the people that you were in
14 contact with at Abu Ghraib prison?

15 THE INTERPRETER: The interpreter needs a
16 clarification from the deponent.

17 THE WITNESS: So it was outside the jail cell.
18 The interrogator with the military clothes came to the
19 tents. It was outside the cell.

20 MS. BAILEY: I'd like to show the witness and --
21 I'm sorry, and the jury what's already been admitted,
22 Plaintiffs' Exhibit 226, paragraphs 16 to 18.

23 THE COURT: All right. 226 is in evidence, but
24 again only those admitted portions.

25 MS. BAILEY: Yes, Your Honor.

(Plaintiffs' Exhibit Number 226, paragraphs 16 to 18
admitted into evidence.)

BY MS. BAILEY:

Q Sir, plaintiffs have stipulated in this case that
according to the United States government, you were
interrogated by five military interrogators and only one
civilian interrogator.

How do you explain that?

A No military -- no military interrogators interrogated
me inside the jail cell; they were all civilians. Only when
I left the jail cell.

Q Were you able to tell the difference between military
interrogators and civilian interrogators?

A Through clothing.

Q When you were at Abu Ghraib, did you know that off-duty
military police guards were allowed to wear civilian
clothing?

MR. KIM: And, Your Honor, before he can respond,
just objection. Assumes facts not in evidence.

THE COURT: Sustained.

BY MS. BAILEY:

Q Mr. Al-Zuba'e, you've alleged that soldiers in the
United States Army abused you.

Why haven't you filed a lawsuit against any of
them?

1 THE COURT: Let's take the exhibit down from the
2 screen.

3 THE WITNESS: The Army did not mistreat us. The
4 U.S. Army -- the U.S. Army did not mistreat us.

5 BY MS. BAILEY:

6 Q Sir, didn't you testify on direct that a military
7 police officer named Graner abused you horribly?

8 THE INTERPRETER: The interpreter needs a
9 clarification.

10 THE WITNESS: He's just a guard. He takes orders
11 from others. He's just a guard.

12 BY MS. BAILEY:

13 Q Did you ever hear someone give him orders to abuse you?

14 A No, because whenever we asked him for help, he says I
15 can't do anything, it's out of my hands. I have to take
16 orders, then I can do it.

17 Q He said that to you personally?

18 A Not to me directly. He said it through an interpreter.
19 Egyptian.

20 Q Okay. You have filed a claim against the United States
21 government before, though; haven't you?

22 A No. No.

23 MS. BAILEY: Okay. I'd like to admit also from
24 Plaintiffs' -- or, excuse me, Defense Exhibit 30, pages 19
25 through 23. And if we could go to page 19 and focus at the

1 top.

2 THE COURT: All right.

3 MR. KIM: No objection, Your Honor.

4 THE COURT: All right. They're in.

5 (Defense Exhibit Number 30, pages 19 through 23 admitted
6 into evidence.)

7 BY MS. BAILEY:

8 Q Sir, is that your name in Arabic? And I realize you
9 don't recognize the English.

10 But is that your name in Arabic on the top line?

11 A Yes. Yes.

12 Q Okay. This is a claim form that's in your detainee
13 file to the U.S. Army Foreign Claims Commission?

14 THE INTERPRETER: The interpreter needs a
15 repetition.

16 BY MS. BAILEY:

17 Q Oh, sorry.

18 This is a claim form in your detainee file to the
19 U.S. Army Foreign Claims Commission? I'll follow up with a
20 question when you translate that.

21 I'd like you to look at -- if we could go to the
22 top of page 23. You made a claim for things you said the
23 United States Army took from you when you were captured; is
24 that correct?

25 A What do you mean when I filed? Is that when they took

1 me from my house?

2 Q When you were captured, sir, did you say that the U.S.
3 Army took \$20,000 from you?

4 A They --

5 THE INTERPRETER: The interpreter needs a
6 repetition.

7 THE WITNESS: In the computer, they took my car,
8 my money.

9 MS. BAILEY: I'm sorry. Did you say the computer?

10 THE INTERPRETER: Yes.

11 BY MS. BAILEY:

12 Q Okay. They took your car, and \$20,000 is the amount of
13 money that they took?

14 A Yes.

15 Q Okay. Did the United States government ever give that
16 \$20,000 back to you?

17 A No. Nobody returned it.

18 Q That's a lot of money. Weren't you upset that you
19 didn't get it back?

20 A I don't know what to do. I was scared. I was not able
21 to say anything.

22 Q Okay. But you haven't filed a lawsuit against the
23 United States to get your \$20,000 back?

24 A No, I did not.

25 Q Okay. You mentioned that the Army took your car.

1 You're a taxi -- or you were a taxi driver;
2 correct?

3 A The way we work, it's not very organized. Sometimes
4 it's taxi driver, sometimes I buy and sell things.

5 Q You couldn't be a taxi driver without your car?

6 A Yes. It's my car. It's not like a rental.

7 Q But you didn't file a lawsuit against the United States
8 government to get your car back or to get money for it; did
9 you?

10 A Yes.

11 Q Yes, you did; or yes, you did not?

12 THE INTERPRETER: The interpreter needs a
13 clarification. The interpreter asked him is that true that
14 you did not file, and the deponent said yes.

15 MS. BAILEY: Okay. Thank you. I appreciate it.

16 If we could go to the bottom of that page and
17 focus in on the text there.

18 BY MS. BAILEY:

19 Q At the same time you made your claim for \$20,000, you
20 also claimed that you had been tortured at Abu Ghraib
21 prison; is that correct?

22 A I swear, I do not recall.

23 Q Okay. The United States hasn't paid you anything for a
24 claim of torture, correct?

25 A Yes.

1 MS. BAILEY: Is that also that that is correct?

2 THE INTERPRETER: Correct. Yes.

3 MS. BAILEY: Thank you.

4 BY MS. BAILEY:

5 Q But instead of filing a lawsuit against the government,
6 you filed a lawsuit against CACI?

7 A Yes.

8 Q You didn't know who employed the employee -- or the
9 civilians you saw at Abu Ghraib; did you?

10 A No, I don't.

11 Q Okay. When you first sued CACI, you claimed that CACI
12 interrogators directly abused you; didn't you?

13 THE INTERPRETER: Sorry. The interpreter needs a
14 clarification. When you first what?

15 BY MS. BAILEY:

16 Q When you first sued CACI, you claimed that CACI
17 interrogators directly abused you?

18 A I did not know that. It was civilians that mistreated
19 me. They were not military.

20 Q So you're saying now that it's -- you are claiming
21 still today that CACI interrogators directly abused you?

22 A They were civilians, yes.

23 Q Do you understand there is no claim in this case before
24 this jury that civilians directly abused you?

25 MR. KIM: Objection, Your Honor.

1 THE COURT: Overruled.

2 THE INTERPRETER: The interpreter needs a
3 repetition.

4 BY MS. BAILEY:

5 Q Sure.

6 Do you understand that in this case before this
7 jury, there is no claim that civilians directly abused you?

8 THE INTERPRETER: I'm sorry. The interpreter
9 needs a repetition.

10 THE WITNESS: The treatment was all from the
11 civilians.

12 BY MS. BAILEY:

13 Q Okay. You never asked the United States government to
14 identify who interrogated you; did you?

15 A I'm scared. I didn't want to ask. Who would I ask?

16 Q Your lawyers didn't ask on your behalf either; did
17 they?

18 THE COURT: Sustained. There's no question.

19 BY MS. BAILEY:

20 Q Have you ever tried to sue Mr. Graner?

21 A I don't know.

22 Q After you were released from Abu Ghraib, you didn't
23 seek any medical treatment; did you?

24 A Yes.

25 Q Yes, he did; or no, he did not?

1 A Yes, meaning I did not seek any.

2 Q Okay. So the only times you've seen a doctor for
3 talking about the treatment you received at Abu Ghraib is
4 when you saw Dr. Xenakis and Dr. Payne-James?

5 A Dr. Xenakis said what injuries do you have. I told him
6 what I had just told you.

7 MS. BAILEY: Okay. I'd like to show just the
8 witness Defense Exhibit 16.

9 THE COURT: Is there any objection to 16?

10 MR. KIM: No, Your Honor.

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

12 (Defense Exhibit Number 16 admitted into evidence.)

13 MS. BAILEY: If we could publish 16, please.

14 BY MS. BAILEY:

15 Q Sir, this is a picture of you that Dr. Xenakis took
16 when he did his examination of you in 2013; is that correct?

17 A Yes. This is my picture, yes.

18 Q Who was there when you were examined?

19 A I swear, I don't recall. Maybe somebody was there. I
20 do not recall.

21 Q Was there an interpreter?

22 A Maybe there was not an interpreter. I swear, I do not
23 recall.

24 Q Okay. I'd like to ask you about some of the
25 information Dr. Xenakis considered.

1 Did you tell Dr. Xenakis that on the second day of
2 your confinement, you were given a traditional robe to wear?

3 A No, I did not tell him that.

4 Q Did you tell him that you were bitten by dogs during
5 your interrogation sessions, not in the hallway?

6 THE INTERPRETER: Not in all?

7 MS. BAILEY: Not in the hallway.

8 THE WITNESS: I do not recall.

9 BY MS. BAILEY:

10 Q Did you tell him that you had been physically abusive
11 to both of your wives and your children since your release?

12 A I was not in a good -- I was not feeling good after I
13 left, but I did not tell him such things.

14 Q Would you say your wives and children have witnessed
15 the effects that imprisonment had had on you physically and
16 mentally?

17 A Yes.

18 Q But none of them are testifying in this trial; are
19 they?

20 A Repeat.

21 Q None of them are testifying in this trial; correct?

22 A No, I don't know.

23 Q In fact, there are no witnesses in this trial who will
24 verify the things you testified to today?

25 MR. KIM: Objection, Your Honor.

1 THE COURT: I'm going to sustain that objection.

2 MS. BAILEY: No further questions, Your Honor.

3 THE COURT: Is there any redirect?

4 MR. KIM: Yes. Can we bring up Plaintiffs'
5 Exhibit 20, please, and specifically the second page.

6 THE DEPUTY CLERK: There's only one page.

7 MR. KIM: Are you able to go to defendant's
8 version of it?

9 THE DEPUTY CLERK: Yes.

10 REDIRECT EXAMINATION

11 BY MR. KIM:

12 Q Asa'ad, are you able to read what is written here?

13 A No. No.

14 Q Did anyone ever read to you what is written here?

15 A No.

16 Q And going to the first page, did anyone ever read to
17 you what is written here either?

18 A No.

19 Q Do you know if whoever wrote this statement actually
20 wrote down everything you said?

21 A I don't know.

22 Q Do you recall what you spoke about with the people who
23 wrote this statement?

24 A I swear, I do not recall.

25 Q Do you recall any of the questions they asked you?

1 A No, I do not recall.

2 Q Do you know if they asked you to identify your
3 interrogators?

4 A I do not recall, no.

5 MR. KIM: We can bring this down now.

6 And can we please bring up Defense Exhibit 30.

7 MS. BAILEY: What page?

8 MR. KIM: Specifically page 19.

9 BY MR. KIM:

10 Q And you spoke about this briefly with defense counsel.
11 This is a claim in your detainee file submitted to the
12 United States Army Foreign Claims Commission; do you recall
13 that?

14 THE INTERPRETER: The interpreter needs the last
15 three words you said.

16 MR. KIM: Sure. If he just recalls speaking about
17 that with defense counsel.

18 THE WITNESS: I do not recall.

19 BY MR. KIM:

20 Q Okay. Let's go to page 23, please.

21 And so this asks you to provide a brief statement
22 underlying your claim for damages. And if we could scroll
23 to the bottom. And so this reads at the bottom in English:
24 I was tortured at Abu Ghraib prison and had a breakdown and
25 was assigned an attorney by the Pentagon named Captain

1 Norman.

2 Do you know who Captain Norman is?

3 A No. No.

4 Q Do you even recall ever meeting this attorney that was
5 purportedly assigned to you?

6 A No, I do not recall.

7 Q Did anyone ever contact you about this claims form?

8 A No. No.

9 Q And so nobody from the U.S. government -- after you
10 submitted this claims form for torture, nobody ever
11 discussed that with you?

12 A No.

13 MR. KIM: We can take this down now.

14 Can we please bring up Defense Exhibit 11,
15 paragraph 7, which is, I believe, on the third page.

16 BY MR. KIM:

17 Q And so defense counsel spoke to you about a couple of
18 the other paragraphs here, but paragraph 7 provides two male
19 interrogators wearing civilian clothes whose specific
20 identities are currently known to Plaintiff Al-Zuba'e, have
21 knowledge relevant to the abuses alleged in paragraphs 46,
22 49 and 50 of the second amended complaint.

23 This was also a part of your interrogatory
24 responses; is that correct?

25 A I swear, I do not recall.

1 MR. KIM: Okay. We can take this down now.

2 And last question. If we could please bring up
3 Plaintiffs' 226 as well, specifically paragraph 18.

4 THE COURT: All right. This is the uncontested
5 facts?

6 MR. KIM: And I'm just going to briefly read this
7 into the record, Your Honor.

8 THE COURT: Go ahead.

9 MR. KIM: And so this is the stipulation of facts
10 between the parties, and paragraph 18 reads: According to
11 the United States, Mr. Al-Zuba'e was interrogated by a CACI
12 employee, CACI Interrogator G, and Army Interrogator B, on
13 December 23rd, 2003.

14 No further questions.

15 THE COURT: Any recross?

16 MS. BAILEY: Very brief, Your Honor.

17 If we could bring up Plaintiffs' Exhibit 20 on the
18 second page, and if we could focus in on the bottom writing.

19 RE CROSS EXAMINATION

20 BY MS. BAILEY:

21 Q Mr. Al-Zuba'e, that's your signature, isn't it, on the
22 bottom left?

23 A I swear, I do not recall.

24 MS. BAILEY: Okay. And this is a housekeeping
25 issue, Your Honor. I'm not sure that I admitted in Defense

1 Exhibit 11 on page 3, paragraph 5, which we showed to the
2 jury. And presumably plaintiffs' counsel would like
3 paragraph 7 as well admitted.

4 MR. KIM: Yes.

5 MS. BAILEY: So if we could admit both those
6 paragraphs.

7 THE COURT: One second. Exhibit 11?

8 MS. BAILEY: Yes, Your Honor. Defense Exhibit 11
9 at page 3, paragraphs 5 and 7.

10 THE COURT: All right. Just those portions are
11 in. That's all. Yes.

12 MS. BAILEY: Yes, Your Honor. And page 27 was
13 previously admitted.

14 THE COURT: Right. All right.
15 (Defense Exhibit Number 11, paragraphs 5 and 7 admitted into
16 evidence.)

17 MS. BAILEY: Thank you, Your Honor. No further
18 questions.

19 THE COURT: Very good, because it's about time for
20 the break.

21 Mr. Al-Zuba'e, I want to thank you for your
22 testimony, but your testimony is now complete.

23 Thank you to the interpreter.

24 THE WITNESS: Thank you.

25 (Witness excused at 11:20 a.m.)

1 THE COURT: So, ladies and gentlemen, we're going
2 to have our morning break now. I'm going to give you
3 15 minutes, and then we will start with the completion of
4 the direct examination of Mr. Torin Nelson that began
5 yesterday. All right. 15-minute recess.

6 (Jury not present at 11:20 a.m.)

7 (A recess was taken.)

8 THE DEPUTY CLERK: Rise for the jury.

9 (Jury present at 11:36 a.m.)

10 THE COURT: All right. Mr. Nelson, you're still
11 under your affirmation to tell the truth from yesterday's
12 testimony.

13 DIRECT EXAMINATION

14 BY MR. FARIDI:

15 Q Mr. Nelson, when we left off yesterday, we were talking
16 about the relationship between military intelligence and
17 military police; do you recall that, sir?

18 A Yes, I do.

19 Q At Abu Ghraib, did you notice something about how the
20 military police folks were behaving and what they were doing
21 that you found to be unusual?

22 A There was one particular incident towards the end of my
23 tenure there. This would have been sometime, I believe, in
24 the beginning of January. I was in the process of escorting
25 my detainee at that time through the hard site. We couldn't

1 go to the normal interrogation booth, so I was walking him
2 along the catwalk on the upper floor towards the showers as
3 an alternate interrogation booth.

4 I noticed that down on the floor, the first floor,
5 there was one of the cell doors of the hard site open,
6 allowing me to actually see into the cell of another
7 non-associated detainee with me.

8 The MP, I noticed, had opened up the door in order
9 to be able to change a CD on a stereo box that had been
10 playing extremely loud music, like a heavy metal/grudge type
11 of music just at full volume.

12 This box was sitting in front of a detainee who
13 was forced to sit cross-legged on the floor facing the outer
14 door. There are two doors. There's an outer door that's
15 solid, inner doors that are bars. The detainee appeared to
16 have been possibly handcuffed or tied, I'm not sure, to the
17 bars sitting in the squatting position. Not squatting,
18 maybe Indian style, I guess. Cross-legged. Directly facing
19 the box, and the MP was changing the CD to put on another
20 music CD. Extremely loud music.

21 Q Why did you find that unusual?

22 A Well, this would not be anything that an MP would
23 normally be doing. This is not -- this is total breach from
24 standard protocol for what a guard force is actually
25 supposed to do with detainees that they're safeguarding.

1 But it is something that has been brought up for military
2 intelligence applications before.

3 Q In your experience, do military police folks defer to
4 the interrogator's authority?

5 A Yes.

6 MR. O'CONNOR: Objection. Competence.

7 THE COURT: Oh, I think given this man's
8 experience in the field, he can certainly answer that
9 question. Overruled.

10 BY MR. O'CONNOR:

11 Q What's the answer?

12 A Yes.

13 Throughout my experience with working with guard
14 forces around the world, I've never had an incident where
15 guard forces actually balked at any type of request order
16 that I've give them in the conduct of handling detainees
17 that are assigned to me.

18 Q And what role do interrogators have in setting
19 conditions for detainees for interrogations?

20 A Ultimately they have an extreme high level of control.
21 They can put in requests on a regular basis for isolation,
22 separation, change of scenery. They can put in requests,
23 which are usually adhered to, for extra things. Extra
24 rations, extra blankets, pillows, comfort items, a change of
25 location within a detention facility. This would all be

1 used to facilitate the interrogation process. So they have
2 a lot of leeway with guard force to be able to put in
3 requests.

4 Q Now, at Abu Ghraib, sir, did you personally direct any
5 of the military police folks to abuse any of your detainees?

6 A I have never done so in my entire career.

7 Q Why not?

8 A I find it counterproductive, ineffective, a waste of
9 time.

10 Q Why is it counterproductive? Why is it a waste of
11 time?

12 A One, I am able to get a very high amount of information
13 that is truthful and accurate from detainees by treating
14 them humanely and engaging them in conversation, eliciting
15 information or just getting their willing cooperation.

16 I have noticed that people who have other
17 detainees who go into a more confrontational method with
18 their investigations tend to get lower amounts of
19 information. You know, less cooperation. And the quality
20 of the information is usually substandard. Very poor,
21 vague, lacking of detail or accuracy.

22 As well as my studies throughout other theaters of
23 war going back to World War II, I was an instructor, I
24 studied previous engagements, and studies have shown that
25 the most effective information that we have gleaned has been

1 through the use of humane treatment by qualified, skilled
2 people.

3 Q Well, let's talk about the personnel, the interrogators
4 at Abu Ghraib.

5 Did you interact with other CACI interrogators,
6 employees at Abu Ghraib?

7 A I did. Pretty much from the first day that I arrived.

8 Q Let's talk about Tim Dugan for a moment.

9 Who is Tim Dugan?

10 A Tim Dugan was another CACI employee that was assigned
11 to work with me in the same facility in the intelligence
12 center there, the JIDC. My first understanding was that he
13 was actually working as an analyst.

14 Q All right. Well, did you ever live with him at Abu
15 Ghraib, with Mr. Dugan?

16 A So after about a week or two of living in general
17 quarters, which was a much open bay area, we were
18 transferred into more private prison cells in one area of
19 the compound. Tim Dugan was sharing a cell with me, so we
20 spent quite a bit of time together.

21 Q When you were spending time with Mr. Dugan when you
22 were sharing a cell with him, did you ever hear him talk
23 about treatment of detainees at Abu Ghraib?

24 A Yes. There was one incident late December or early
25 January -- I think it might have been late December -- where

1 Tim had been drinking a little bit. He had another fellow
2 in the cell, and I was in the cell laying on my cot. He was
3 sharing what I would consider war stories, and he was
4 complaining about how the interrogator that was partnered
5 with him, a military interrogator, was inadequate, in his
6 opinion. He was too soft on his -- on the detainee that he
7 and Tim were working. And so Tim felt the need, the
8 obligation to take over and -- because he believed that that
9 was the effective way to do it.

10 So there was a particular incident that he
11 described where the detainee was handcuffed to an eye bolt
12 in the floor of the interrogation booth. The eye bolt is
13 supposed to be used for the leg irons so that --

14 Q For the what?

15 A For leg irons, the shackles that are put around the
16 ankles of a detainee so that they cannot run away.

17 MPs can be ordered to cuff a detainee to the eye
18 bolt that is mounted into the floor to avoid the detainee
19 being able to escape. I don't feel the need to ever use it.
20 I usually unhandcuff my detainees. But it is an option for
21 safeguarding prisoners, as well as the personnel that are in
22 the room.

23 Tim described how he had the detainee handcuffed
24 to the eye bolt so that the detainee was not able to sit in
25 a chair, was forced to squat on the floor so that the

1 plastic -- white plastic lawn type of furniture that we had
2 in the interrogation booths was eye level to -- well, it was
3 right about even with his nose, I would say, and then he was
4 just looking over the table as Tim leaned back in his chair
5 and asked him questions.

6 Tim described how he asked a question he didn't
7 like, and he kicked the table, and he said that they said
8 that I hit the detainee. I don't think I did, but I don't
9 even care if I did, I know what I did works, and I'll save
10 lives.

11 Q Were you -- what was your reaction when you heard
12 Mr. Dugan describe this incident?

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

14 THE COURT: His reaction, I think, is not
15 relevant. I'll sustain that objection.

16 MR. FARIDI: Sure.

17 THE COURT: But the question is, did you report
18 that discussion to anybody at CACI?

19 THE WITNESS: At CACI, no, I did not. I needed to
20 gather more information on the incident. It was already
21 reported through the military channels, and I wanted to look
22 at it because it was -- I did not know at the time if it was
23 a detainee that was associated with any of my detainees and
24 if it would affect my work or my ability to work with any of
25 my detainees at the time, Your Honor.

1 THE COURT: And, wait, just to clarify one thing
2 further.

3 You had indicated before when you were describing
4 the high level of control that interrogators had, you said
5 you could put in a request for extra blankets, change of
6 location, et cetera.

7 What was the request process, and to whom would
8 such requests go?

9 THE WITNESS: The normal process for putting in a
10 request is the same pretty much what we do with
11 interrogation plans before we actually go in and do an
12 interrogation plan.

13 THE COURT: All right. Now, this is as to Abu
14 Ghraib, not any other place.

15 So at Abu Ghraib, what was that chain?

16 THE WITNESS: Yes, Your Honor.

17 It was the same process at Abu Ghraib with our
18 interrogation plans, which they normally will go through our
19 team chief as the sections that we're divided into. It
20 would go through our chain of command, generally on the
21 military side.

22 THE COURT: Excuse me.

23 Who would the team chiefs be?

24 THE WITNESS: Well, it would be usually senior
25 NCOs or a chief warrant officer on the military side. And

1 the request -- because there is -- this is operational
2 matters on a day-to-day basis within the JIDC for
3 intelligence-gathering purposes. So the military is the
4 client and will need to sign off, according to FM 2-22.3, on
5 any particular requests that are asked for during the course
6 of an interrogation, Your Honor.

7 THE COURT: All right. Go ahead.

8 BY MR. FARIDI:

9 Q And I'll follow up on a few of the issues that Your
10 Honor has raised.

11 Let's focus first on whether or not you reported
12 this incident. Okay.

13 Did you report this incident that -- as to
14 Mr. Dugan?

15 A Yes, I did report it once to General Taguba's CID
16 investigators who came through to ask their questions. They
17 were the proper authorities that were sent, and so I gave
18 all information that I could about things that I had known
19 that I believed were relevant and pertinent to the questions
20 that they asked.

21 Q And we'll get into the details of it later.

22 But did you have discussions with Mr. Porvaznik,
23 who worked for CACI, as to some of the issues at Abu Ghraib?

24 A Yes. Right from the very beginning, as I stated, the
25 first week I mentioned some of my difficulties of being able

1 to work there given the conditions that hadn't been
2 explained to me beforehand. And Mr. Porvaznik, one of his
3 main points was asking me to stay there longer because they
4 were so shorthanded with experienced interrogators, to which
5 I agreed, and was the main impetus for me to stay as long as
6 I actually did.

7 Q We're going to dive into that a little bit more later.

8 Did you interrogate anyone who had previously been
9 interrogated by Mr. Dugan?

10 A Yes.

11 Q Okay. So let's focus on the first meeting you had with
12 this detainee. Please don't disclose the name of the
13 detainee; okay?

14 A Correct.

15 Q Can you describe the physical condition that you found
16 the detainee in when you took over that detainee's
17 interrogation?

18 A So I was in the interrogation booth with both my
19 translator and my analyst side saddling with me. The three
20 of us were sitting there. And I began the interrogation by
21 just introducing myself and mentioning that I was here to be
22 able to take care of any issues that he might have, and we
23 were just going to have a conversation.

24 After the introductions, he started talking --

25 MR. O'CONNOR: Your Honor, to the extent he's

1 going to start saying what a third party told him for the
2 truth of that matter, that's hearsay, and we object.

3 MR. FARIDI: We're not going to focus on that.

4 BY MR. FARIDI:

5 Q Can you just describe the detainee's physical
6 appearance?

7 A He started talking, and while he talked, he pulled up
8 his sleeve and showed his arm, which is -- his forearm was
9 bruised from about his elbow down to his wrist, possibly
10 about 7, 8 inches long or so. It was an older bruise
11 because it was yellowing a little bit, brown, there was
12 still some purple. But it was very deep and very strong and
13 it went around the entire forearm. It was extremely
14 noticeable. And he also pointed to his forehead and showed
15 a large knot or a bump on his forehead over his left eye and
16 he said that he had --

17 MR. O'CONNOR: Don't --

18 MR. FARIDI: I got it.

19 BY MR. FARIDI:

20 Q Please don't tell the jury what the detainee told you.
21 You've described the detainee's physical condition. That's
22 enough.

23 Did you report this incident to the Army's
24 Criminal Investigation Division?

25 A I did.

1 Q Why?

2 A Because it was very concerning to me that there was
3 definite proof in my eye at that time that there was
4 physical abuse going on. The Army CID investigators, in my
5 opinion, were the proper authorities at that time sent in
6 order to be able to conduct a more thorough investigation
7 than I ever could.

8 Q Okay. I'm going to ask for a yes-or-no answer on this.

9 Did you investigate how the detainee sustained
10 those injuries?

11 A Yes.

12 Q Okay. How did you investigate that? What did you do?

13 A After discussing with a couple of other people -- I
14 won't mention any hearsay from them -- I started looking
15 into operational reports.

16 Operational reports are in-house reports that are
17 written by reporting officers, generally the interrogator
18 after an interrogation. They're used to log all activities
19 that go on during an interrogation that are outside of
20 intelligence operations. Intelligence information is
21 submitted through publications, but generally an IAR, an
22 intelligence information report, they are published into the
23 intelligence community.

24 An MFR, memorandum for record at the time, now
25 called an ISR, interrogation summary report, is an in-house

1 operational report in order to be able to, in detail, log
2 every bit of activity that does not go into the intelligence
3 publications, but is used to make sure that we are
4 accountable for everything that we do in the interrogation
5 booths.

6 Q Did you review the investigation log for this
7 particular detainee?

8 A I did.

9 Q And was the incident that you described logged in the
10 document?

11 A It was not.

12 Q At Abu Ghraib, sir, did you observe conduct that was
13 not documented in these formal interrogation logs?

14 A Yes.

15 Q Can you describe that for the jury.

16 A Well, again, going on into the particular detainee that
17 I was working with that showed me the bruise and the bump, I
18 was specifically looking for any mention of any incident of
19 an accident, of reporting of a -- of these injuries being
20 sustained by any other means.

21 The problem was was that the reports that I was
22 reading were confusing me to the extent that it didn't even
23 comport with what I was hearing about who was directly
24 involved. It was extremely confusing to me. This is why it
25 was very difficult for me to actually report to anybody on

1 the ground at the time about what I was seeing.

2 It was already known this is why the detainee was
3 given to me. The detainee was given to me specifically.
4 Staff Sergeant Ashton (phonetic), my team lead at the
5 time --

6 THE COURT: This is not necessarily being offered
7 for the truth; it's explaining how this person gets to this
8 man's attention. That, to me, is not hearsay.

9 Go ahead.

10 THE WITNESS: -- stated I was being given the
11 detainee because I had a reputation for being good with soft
12 approaches, and the detainee was borderline medical, heart
13 attack or stroke; therefore, they couldn't risk continuing
14 on with previous interrogations.

15 BY MR. FARIDI:

16 Q Let's talk about Steve Stefanowicz.

17 Do you know him?

18 A I do. I know him as Big Steve.

19 Q Okay. Well, why did you know him as Big Steve? Can
20 you describe him for the jury?

21 A Most people refer to him as Big Steve. There, most
22 people were on a first-name basis with everybody else.

23 But Steve was a big guy. He was tall, very
24 imposing figure, goatee, I think he had at the time.

25 Q Can you describe whether he had any supervisory

1 authority at Abu Ghraib?

2 A It seemed that he had a de facto supervisory authority.
3 He was not originally hired as an assistant site manager or
4 site lead, but he was operating as one. He introduced
5 himself as such, and I believe on the first or second day
6 that I was there, he showed me around the compound a little
7 bit and helped me get set up in my original quarters.

8 Q And which shift did you work?

9 A I worked the day shift. I generally do.

10 Q And which shift did he work?

11 A He worked the night shift almost the entire time, as
12 far as I know.

13 Q And did you have any conversations with him about
14 interrogations?

15 A A little bit. We would see each other in passing. We
16 don't usually talk about interrogation operations outside of
17 the interrogation center, but when we would see each other
18 during shift changes, I like to talk to other interrogators
19 about -- especially if they're working on associated
20 detainees.

21 He was on another team, didn't have an associated
22 detainee at the time, but I was just shooting the breeze
23 with him one day early on, getting to know him. And he
24 bragged about how he had gotten one of his detainees to
25 admit that he was Osama bin Laden in disguise.

1 Q Did that stand out to you?

2 A Yes. For a couple of reasons.

3 MR. O'CONNOR: Objection. Relevance.

4 THE COURT: Overruled.

5 BY MR. FARIDI:

6 Q Why?

7 A One, it was obvious that we did not have anybody
8 fitting that description, and, therefore, this was useless
9 information, it was not pertinent to the intelligence
10 community.

11 Two, what was more concerning was what you would
12 have to do to a person in order to get them to admit to
13 something so preposterous.

14 Q Let's talk about Daniel Johnson.

15 Who did he work for?

16 A DJ, as we knew him, was an employee of CACI hired as an
17 interrogator.

18 Q And, by the way, was Mr. Stefanowicz -- who did he work
19 for?

20 A Mr. Stefanowicz worked for CACI as well.

21 Q Okay. And focusing on DJ, Mr. Johnson, did you have
22 any interactions with him?

23 A I did. Probably more than with Steve.

24 He may have worked the night shift from time to
25 time, but he worked quite a bit on the day shift with me.

1 Q Did you ever have any interactions with him regarding
2 treatment of detainees?

3 A A little bit. There was an associated detainee. There
4 was a large group of detainees that was brought. This would
5 have been later on, late December or early January. He was
6 given one or two of the detainees that were in this
7 associated group, I was given one of the detainees, and
8 there was a third military interrogator who was given
9 another associated detainees. So we were all working the
10 same associated group at that time.

11 Q Okay. And did you have any interactions with respect
12 to the treatment of detainees that were associated with each
13 other with Mr. Johnson?

14 A Very limited interaction, unfortunately.

15 Typically when you have a group of detainees that
16 are associated with each other, whether they're soldiers all
17 from the same unit, tribe members from the same tribe or
18 family, whatever it might be, insurgents from the same cell
19 groups, if they're divvied up amongst different
20 interrogators or interrogation teams, it's standard
21 procedure for the various interrogators to work very closely
22 with each other to compare notes, to make sure that they're
23 not overlapping in information, that there is stuff they're
24 corroborating or stuff that is conflicting and be able to
25 resolve those conflictions. This is something that we train

1 for all the time. I was doing that with the military
2 interrogator, and we were cooperating quite a bit, and it
3 was very productive for both of us.

4 When we invited DJ to come and work with us, he
5 consistently failed to show up at any of our meets during
6 shift change to be able to collaborate on this team effort.

7 Q And did that affect how you were doing interrogations?

8 A Yes, it did. It forced me then to go through his
9 interrogation reports, both the operational in-house
10 reports, as well as any type of IIRs, intelligence
11 information reports, that he might have published based upon
12 any information he might have been getting.

13 Q And what did you find?

14 A Well, first off, I was really concerned as to why he
15 immediately, upon the first meeting in his operational
16 report, listed that he put in the detainee for isolation or
17 separation, as we refer to it in intelligence.

18 It's a very extreme measure. It generally
19 requires -- at least today it requires the approval of an
20 O-6 or higher, that's a full bird colonel in order to be
21 able to even be approved. Very isolated cases does it get
22 approved, and it's only good for 30 days.

23 It also didn't seem necessary in any way, shape or
24 form because our detainees, who were all associated with
25 this one, were extremely cooperative with us, the other

1 military interrogator and I, and talkative with us from the
2 very beginning. That was the first thing that kind of
3 bothered me.

4 The second thing was the substandard condition of
5 the reporting, using terms such as "detainee is crying in
6 the corner like a little girl." "Detainee is broken into
7 1,000 pieces like Humpty Dumpty." These are not acceptable
8 in professional publications, and it was, again, very
9 concerning that he was actually typing up such reports.

10 Q Did you ever interrogate a detainee in a room that was
11 adjacent to a room where DJ, Mr. Johnson, was conducting an
12 interrogation?

13 A Yes.

14 Q What did you -- what did you observe? What did you
15 hear?

16 A So this -- I didn't visually observe the interrogation.
17 There were no one-way mirrors between.

18 We had two interrogation booths in the shack that
19 was behind the hard site that were adjoining each other.
20 Separate entrances to them. I had my detainee, along with
21 my interpreter and my analyst at the time, in the
22 interrogation booth. We began our interrogation. DJ was
23 doing a simultaneous interrogation next door.

24 Unfortunately, the ruckus that he was creating at
25 that time by throwing furniture, screaming so loud that I

1 could tell immediately that it was DJ's voice, and hearing
2 the profanity that was coming out of him, led me to believe
3 he was doing what we called at the time of a fear up harsh
4 approach.

5 (Reporter interrupted for clarification.)

6 THE WITNESS: Fear up harsh.

7 There's two types of fear up. We have a fear up
8 mild and a fear up harsh. Now we only refer to it as fear
9 up, and it generally refers to only doing it as a fear up
10 mild. Fear up harsh is something that has been pretty much
11 disavowed by the military intelligence community, at least
12 on the Army side now.

13 He was making such a ruckus that it caused not
14 only visible concern amongst my detainee, but also amongst
15 my interpreter and my analyst so that we actually had to
16 cancel our interrogation and I had to have my detainee
17 escorted out of the room.

18 I heard fear up harsh approaches done before.
19 It's something that I get used to. You know, I usually will
20 allay the fears or suspicions of whoever I'm working with if
21 they can hear it.

22 This one was so over the top, in my opinion, that
23 it caused me to actually surreptitiously end my
24 interrogation and reschedule for another time.

25 THE COURT: Did you report that in your reports?

1 THE WITNESS: To the investigators. I can't
2 remember if it was to the CID investigators or --

3 THE COURT: Not to the investigators, no. In your
4 operational reports, the ones that you said you were filing
5 each day when you had a detainee, was that recorded?

6 THE WITNESS: Most likely. After every
7 interrogation, whether or not it actually comes to fruition
8 where we actually can properly conclude with intelligence
9 information, or if it's ended shortly for outside reasons, I
10 will always put in an operational report. Standard
11 procedure.

12 THE COURT: Again, was any of this -- to your
13 knowledge, did you report any of this to CACI?

14 THE WITNESS: At the time, no, I did not.

15 THE COURT: How about to Mr. Porvaznik?

16 THE WITNESS: No. At the time, I did not.

17 THE COURT: At some point you did?

18 THE WITNESS: When I went to -- the first time
19 that I really began to talk with Mr. Porvaznik, my
20 understanding was that he was in no condition to
21 actually hear anything that I had to say that was of
22 concern.

23 THE COURT: What time frame are we talking about?

24 THE WITNESS: This would have been early January
25 of 2004.

1 THE COURT: And when you say he was in no
2 condition, what do you mean by that?

3 THE WITNESS: He did not want to hear anything
4 that I had to say at that time about the suspicions of
5 wrongdoing by any other CACI employees in the operational
6 center.

7 BY MR. FARIDI:

8 Q I want to follow up on that. So let's step back for a
9 moment.

10 You did report something to the Army's Criminal
11 Investigation Division; correct?

12 A Yes. One of the main reasons -- one of the main
13 reasons why I have to always hold on reporting things is
14 that there are a lot of different factors that can go into a
15 potential or possible abuse. My gut instinct at the time
16 was to find information that could discount it or
17 corroborate that, usually through operational or
18 intelligence report production, before I can actually start
19 the process. Because in the intelligence community, it is a
20 very big deal to start saying things against your fellow
21 co-workers, especially in hostile fire areas. So if you're
22 going to say something against them, you better have some
23 good information to be able to back that up.

24 Q Okay. And you testified earlier -- I just want to
25 reorient the jury on this -- that you reported something

1 about Mr. Dugan to the Army's Criminal Investigation
2 Division; correct?

3 A Correct.

4 Q Okay. Turn with me to tab PTX 051 from the binder in
5 front of you.

6 THE COURT: Any objection to Plaintiffs' 51?

7 MR. O'CONNOR: Yes, Your Honor. It's hearsay.

8 MR. FARIDI: Your Honor, at the time he wrote it,
9 he was a CACI employee, so it's a party-opponent admission.

10 MR. O'CONNOR: This would not be in the scope of
11 his employment, Your Honor.

12 THE COURT: No. I'm going to permit it. It's in.

13 MR. FARIDI: It's PTX 51.

14 MR. O'CONNOR: Your Honor, he is not a CACI
15 employee. This is dated June 4th, 2004.

16 MR. FARIDI: Well --

17 MR. O'CONNOR: That is -- he's not a CACI employee
18 at the time of this statement, which is what matters for
19 admission.

20 MR. FARIDI: Your Honor, may I respond?

21 THE COURT: Go ahead.

22 MR. FARIDI: The last page is a statement dated
23 January 21, 2004. Okay. And then -- so there's two
24 statements.

25 THE COURT: Wait a minute.

1 We're only looking at the last page then, which is
2 page 4 --

3 MR. FARIDI: Yes.

4 THE COURT: -- of 4.

5 MR. FARIDI: Yes.

6 THE COURT: That is dated January 21, 2004.

7 MR. FARIDI: Yes. Thank you, Your Honor. It's
8 the last page.

9 THE COURT: And he lists his grade status there as
10 a contractor. That would come in. Only that part. Only
11 page 4.

12 MR. FARIDI: Of course, Your Honor.

13 (Plaintiffs' Exhibit Number 51, page 4 admitted into
14 evidence.)

15 BY MR. FARIDI:

16 Q And we're not going to go over this long statement.
17 Okay.

18 Is this the statement that you made to CID?

19 A To the CID investigators at the Abu Ghraib prison, yes.

20 Q So after you told the CID what you had observed with
21 respect to Mr. Dugan or what you had heard from him, did you
22 have any interactions with Mr. Dugan?

23 A I did. It would have been a day or two later.

24 Q Can you describe those interactions for the members of
25 the jury?

1 A After talking with the CID investigators and being
2 assured that the information I gave would be kept in strict
3 confidentiality, I continued to operate as I normally would,
4 which means interacting with the people, even though I had
5 discussed my suspicions about their activities with CID
6 investigators.

7 It was the morning. I passed Mr. Dugan. I don't
8 believe I was actually living with him anymore in the same
9 cell. We had been divided up into one-man cells at that
10 time, but I saw him in passing because we were still in the
11 same housing complex.

12 At first, he ignored me. I thought he just didn't
13 hear me. So I spoke up a little louder and went back
14 towards him. He stopped, turned around, approached me, came
15 within a few inches of my face, looked me dead in the eye,
16 and said "I'm done with you; you're dead to me." And then
17 he turned around and walked away. So at that time I was a
18 little bit suspicious as to what was going on.

19 Q All right. Did you have any interactions with
20 Mr. Johnson, DJ, after you made the statement to CID?

21 A No. I was on my way to the JIDC to find out what was
22 going on because I was concerned that --

23 Q And let me just pause you here for a second.

24 MR. FARIDI: Your Honor, this is going to be for a
25 non-hearsay purpose. It's not coming in for the truth.

1 He's going to talk about a statement that was made to him by
2 someone else, which ultimately led him to report something
3 to Mr. Porvaznik. So it's coming in for a non-hearsay
4 purpose. I just want to flag it for yourself.

5 THE COURT: All right. So the jury understands,
6 you used a terminology, JIDC.

7 MR. FARIDI: JIDC.

8 THE COURT: What is the JIDC again?

9 THE WITNESS: The interrogation center. Joint
10 Internment and Debriefing Center.

11 THE COURT: Okay. Thank you.

12 BY MR. FARIDI:

13 Q What is it that you heard about Mr. Johnson's reaction
14 to the statement that you made to the Army Criminal
15 Investigation Division?

16 A On my way to go to --

17 MR. O'CONNOR: Objection, Your Honor. I'm not
18 sure -- if he went to see the Army Criminal Investigation,
19 I'm not sure of the reason he went there is relevant, and
20 this seems like --

21 THE COURT: Well, it's very relevant if he's
22 complaining about conduct by CACI employees there. So I'm
23 going to overrule that objection.

24 But why don't you, first of all, explain. You
25 were already on your way to that office; is that correct?

1 THE WITNESS: To find Mr. Porvaznik. Correct,
2 Your Honor.

3 THE COURT: All right. And is that normally where
4 he worked in that facility?

5 THE WITNESS: Not normally. He -- as a site lead
6 or site manager, the site lead or site manager will normally
7 work both in their own administrative areas, as well as in
8 the operational center.

9 Part of duties for a site lead or site manager, if
10 they're not an operator actually within the place of work,
11 is to liaise on almost a daily basis with the client to make
12 sure that their personnel are performing well to
13 expectations, that there's no issues that arise that the
14 contracting company needs to be made aware of. So Dan
15 Porvaznik was, from time to time, in the JIDC, the
16 interrogation center. That's why I was on my way to look
17 for him.

18 THE COURT: All right. So you're on your way to
19 meet with him.

20 Go ahead.

21 BY MR. FARIDI:

22 Q And what did you experience?

23 A On my way to actually look for Dan, I ran into my
24 analyst. He asked me what did you do because DJ is looking
25 for you and he's screaming for blood. Those were his words

1 to me.

2 Q So you had a direct interaction with Mr. Dugan, you
3 heard this about Mr. Johnson.

4 Did you end up speaking with Mr. Porvaznik about
5 these issues?

6 A Yes. I spoke to him outside in between where the
7 interrogation center is and the housing area. The -- I
8 believe he was coming from the chow hall, which is in the
9 center of the overall Abu Ghraib compound. And I was
10 talking to him on the mud path between -- between the two
11 offices.

12 Q And what did Mr. Porvaznik say to you? Let me step
13 back.

14 What did you tell Mr. Porvaznik?

15 A Well, I wasn't sure what Mr. Porvaznik's position was,
16 so because I had spoken to CID investigators in
17 confidentiality, I did not want to just say, look, this is
18 all the stuff that I've been saying about other CACI
19 employees, what do I do? I wanted to make sure -- I wanted
20 to see if Mr. Porvaznik was in any position or condition or
21 state of mind to be able to be of assistance to me as a CACI
22 employee. So I asked him just outright, what's going on
23 here? Why am I getting threats against me from Tim Dugan or
24 DJ?

25 Q What was his reaction?

1 A His reaction was very cold, very suspicious. He
2 stepped back and looked at me and he said, well, what are
3 you doing? It seems like you're -- you've got something
4 that you're hiding or that you're talking about them or
5 something like that. My overall thinking at that moment was
6 I was being sized up as the enemy, that I was not on board
7 with the team.

8 Q Let me show you PTX 221. It's in the binder in front
9 of you.

10 Are you familiar with this document?

11 A I am. This is an email that I sent shortly afterwards
12 to Amy Jenson, the program manager for CACI.

13 THE COURT: Any objection?

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

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

16 (Plaintiffs' Exhibit Number 221 admitted into evidence.)

17 BY MR. FARIDI:

18 Q Okay. And by the way, at the time you sent this email,
19 you were working for CACI; right?

20 A By that time, I had been working for CACI for about two
21 months, yes.

22 Q Okay.

23 A On the ground.

24 MR. FARIDI: Let's blow up just the first
25 paragraph here.

1 BY MR. FARIDI:

2 Q And you write here: "Dear Amy" -- by the way, Amy
3 Jenson is the one who interviewed you; right?

4 A Originally, yes. She was the program manager.

5 Q And you're writing to Amy and the United States, and
6 you say: "Dear Amy, I unfortunately have to inform you that
7 I no longer wish to work for CACI, as I feel that, one,
8 there is too great a danger to my life at this time; and,
9 two, I cannot trust the local level of CACI leadership
10 here."

11 Let's just focus on Number 2. Why did you feel
12 the need to tell Ms. Jenson that you could not trust the
13 local level of CACI leadership in Iraq?

14 A After my interaction with Dan Porvaznik, who was the
15 most senior CACI person there on the site, and seeing that I
16 was not going to receive any type of support from the CACI
17 leadership there, that my only option then was to try and
18 get out of the area as immediately as possible.

19 Q After you sent this request, did CACI terminate either
20 Mr. Dugan or Mr. Johnson?

21 A No.

22 Q Okay. And did you end up leaving CACI's employ at Abu
23 Ghraib?

24 A I did. It was kind of a fluke, actually.

25 Q Where did you go next?

1 A Well, I didn't -- I don't remember receiving a response
2 from --

3 THE COURT: No. No. The question is where did
4 you go next.

5 THE WITNESS: Correct.

6 THE COURT: All right. So where did you go?

7 THE WITNESS: I went to Afghanistan.

8 BY MR. FARIDI:

9 Q What type of work did you do in Afghanistan, sir?

10 A I was an assistant site manager for special operations
11 forces in Bagram doing management of linguist assets for
12 special forces.

13 THE COURT: Were you hired by the U.S. Army?

14 THE WITNESS: I was working for another
15 contracting company.

16 THE COURT: You got another contracting company?

17 THE WITNESS: Yes.

18 THE COURT: Okay. All right.

19 BY MR. FARIDI:

20 Q Did you perform interrogations in Afghanistan?

21 A No, not on that contract. Subsequent contracts I did.

22 Q Okay. Let's go back to PTX 85A, the CACI code of
23 conduct from 2003 that I showed you yesterday.

24 This is the code of conduct that you said that you
25 had acknowledged you received; do you recall that?

1 A Yes.

2 Q And I want to focus on paragraph 3 on the third page of
3 the document that's already up on the screen. It's a little
4 bit grainy, so let me read this into the record.

5 Section 3 is titled "Our People ... The Best."

6 And then it goes on to say: "At CACI, people are
7 the most important asset. Our people bring distinction to
8 all we do. They are the best."

9 Can you describe the quality of interrogators that
10 CACI supplied at Abu Ghraib?

11 A The interrogators I interacted with that were CACI
12 employees were, in my opinion, substandard. Nowhere near
13 being high quality, and, in my opinion, should never have
14 been there.

15 Q Let's look at Section 4. Again, it's a little bit
16 grainy, so let me just read a portion of it into the record.

17 "Our responsibilities ... Fully Accountable."

18 And then it goes on to say: "At CACI, we insist
19 on taking full responsibility for ourselves as individuals.
20 We are fully accountable for what we do. Our published code
21 of ethics delineates our uncompromising policies on
22 compliance with the laws and regulations of the
23 jurisdictions where we conduct business. We reward
24 legitimate success and forgive understandable failure (no
25 one is perfect!), but we always learn from our mistakes."

1 Did CACI hold its employees who talked openly
2 about engaging in abuse at Abu Ghraib accountable?

3 A Not to my knowledge. None whatsoever.

4 Q Did CACI hold its employees who threatened you with
5 your life for reporting the abuse to the Army Criminal
6 Investigation Division accountable?

7 A Not to my knowledge, no.

8 Q And based on the employment agreement that we've
9 reviewed earlier yesterday, the code of conduct that we're
10 looking at now, did CACI's management have the ability to
11 stop CACI employees from abusing detainees at Abu Ghraib?

12 A Yes. Standard procedure.

13 Q How so?

14 A As a contracting authority, according to FM 3-100.21,
15 the contractor has ultimate say on how they conduct the
16 operations. They can refuse to cooperate with the military
17 client if the military client is not performing according to
18 the dictates of the agreement.

19 They can pull out, transfer, or fire any of their
20 own employees at will if that employee is found by that
21 company to be not complying with what the agreed-upon
22 contract was with the client at any point.

23 This is done not on the sole purview of the
24 client, but on the decision of the contracting company.
25 This is why the on-ground and even higher level management

1 personnel will work in tandem, cooperation, with the
2 military client. This is one of the main purposes of having
3 a site lead or a site manager. I've worked as one myself.
4 Liaison with the client is for that purpose.

5 Q Just a couple of more questions.

6 You spoke today and yesterday about events that
7 took place 20 years ago -- more than 20 years ago.

8 How do you remember these events, these
9 conversations, with so much detail?

10 A Well, I have a pretty good memory in general, which
11 helps me in my job. But there are certain events in my life
12 which have left a really lasting impression. I can remember
13 things going back to my childhood. I can remember my father
14 dying on Mother's Day 1988 almost 40 years ago. I can
15 recall all the events of that day.

16 What I experienced at Abu Ghraib was one of the
17 worst experiences in my life. I'm going to live with that
18 for the rest of my life.

19 MR. FARIDI: We pass the witness.

20 THE COURT: All right. Mr. O'Connor.

21 MR. O'CONNOR: Your Honor. We have some binders.

22 THE COURT: All right.

23 CROSS-EXAMINATION

24 BY MR. O'CONNOR:

25 Q Mr. Nelson, was drinking alcohol allowed at Abu Ghraib

1 prison?

2 A To my knowledge, no.

3 Q Okay. So when you saw -- when you were laying in your
4 bunk and you saw Tim Dugan drinking alcohol, I assume you
5 went right out and reported that to somebody; right?

6 A No, because I knew that it would be useless.

7 Q Okay. So you did not? The answer is no?

8 A No.

9 Q Okay. And when Tim Dugan told you that -- about the
10 detainee that he -- that you say he said he chained to the
11 eye bolt during the interrogation, you went right out and
12 reported that to the Army; right?

13 A No. As I explained, I needed to gather more
14 information about it.

15 Q Because what he told you wasn't enough for you to think
16 that you had any credible grounds for making an accusation
17 against Mr. Dugan; right?

18 A For serious accusations, you would generally need more
19 information to corroborate or validate what you had learned,
20 yes.

21 Q And when Mr. Dugan told you the story while he's
22 improperly drinking alcohol in your room, you didn't go and
23 tell CACI Tim Dugan told me a story about dealings with a
24 detainee that are completely inappropriate; did you?

25 A No, not at that time.

1 Q And, in fact, you didn't tell anybody until after the
2 Abu Ghraib scandal had been disclosed and the CID was
3 investigating detainee abuse in January; right?

4 A Correct. Once the proper authorities were on the
5 ground, that's when I felt what I've got is what I need to
6 report because they are the proper authorities.

7 Q But prior to that time, you didn't think it was
8 appropriate to go tell Captain Wood, the officer in charge
9 of the interrogation control element?

10 A It was. But if you're going to, again, make any
11 serious accusations against your fellow co-workers in a war
12 zone, you need to make sure that you have good information
13 and good evidence. There's always rumors going around. And
14 if you just go and say, oh, well, I heard this and I heard
15 that, chances are the leadership is just going to dismiss
16 it.

17 Q And so in your estimation, you didn't have good
18 evidence, good information because you didn't report it?

19 A Oh, I had good enough information, in my opinion, that
20 it warranted further investigation.

21 Q By you, not reporting it to the proper authorities?

22 A No. No. Actually, that's why I reported it to the
23 CID, and I kept telling in my sworn statement, if you'll
24 read it, that I suggest you look into. I used that term
25 repeatedly. Because I knew that they had not only the

1 authority, but the capability to be able to do a much more
2 thorough investigation than I could while I was running
3 operations.

4 Q And that wasn't at the time that Tim Dugan made the
5 statements to you, this was late January of 2004 when CID's
6 already investigating all the detainee abuse; right?

7 A I think it was probably about a week or two afterwards.
8 I had spent that time not only doing my interrogations, but
9 also trying to get information usually through the
10 operational reports. I had very limited means to be able to
11 do that.

12 Q Right. But to be clear, your first reporting of
13 anything relating to Mr. Dugan to anybody was in late
14 January when CID was already investigating detainee abuse
15 and you made your statement?

16 A I think it probably would have been around the 18th or
17 19th of January. So maybe closer to the middle. Because I
18 believe the statement was around the 21st of January. That
19 was when it was written up, and that was the following day
20 after I actually had the one-on-one with the investigators.
21 I was called back to, once they had typed it up, to verify
22 it and sign off on it.

23 And that interview was done one or two days after
24 we were called in to the CID office to fill out a piece of
25 paper, which is why they actually called me back in to

1 actually do a full statement with them. So this would have
2 all been somewhere around maybe the 17th, 18th or 19th.

3 Q But not when Mr. Dugan made the statements to you; it
4 was after?

5 A Of course.

6 Q Steve Stefanowicz, in your view, he was a very nice
7 individual; right?

8 A Nice to the Americans.

9 Q A very nice individual period, wasn't he, in your view?

10 A No. Nice to Americans.

11 Q You didn't think he was a very nice amiable person?

12 A A nice and amiable. Very gregarious. Very outgoing to
13 Americans. He was, in my opinion, a showman.

14 Q Do you remember testifying in another proceeding in
15 April of this year?

16 A Yes.

17 Q Did you testify that Steve Stefanowicz was a very nice
18 individual?

19 A Yes.

20 MR. FARIDI: Page, line number, maybe.

21 MR. O'CONNOR: Well, I'm asking him what he
22 recalls.

23 THE COURT: He remembered, so that's all right.

24 BY MR. O'CONNOR:

25 Q And did you testify that he was a very nice amiable

1 person?

2 A Yes.

3 Q And you didn't qualify that as to Americans; did you?

4 A I didn't realize that it was necessary at the time, so
5 that's why I'm doing it now.

6 Q So you did not; right?

7 A No, I did not.

8 Q Thank you.

9 Daniel Johnson, you saw it in a -- when you
10 started looking at his interrogation plans that he sought
11 approval for isolation for a detainee; right?

12 A I don't remember if it was in an interrogation plan or
13 in an MFR, memorandum for record, after the fact. I think
14 it was in an MFR.

15 Q Either way, he had asked the Army chain of command to
16 approve that; right? That's what you saw?

17 A No, not necessarily, because if I'm not looking at the
18 interrogation plan, which would go through his section
19 chief, and I'm only looking at the MFR, I'm only looking at
20 the after-the-fact. So it may have just been done without
21 going through the proper channels. I can't make that call.

22 Q But you don't have any idea; do you?

23 A Whether or not he put in the request? No.

24 Q Thank you.

25 And fear up harsh was an interrogation approach

1 that was approved under the Interrogation Rules of
2 Engagement that the Army set at Abu Ghraib prison; right?

3 A According to FM 34-52, correct. It is the name of one
4 of the more difficult approaches. It is very
5 confrontational, and it is very out of the norm because it
6 can be abused easily.

7 THE COURT: Well, that's not an answer to the
8 question. As I understand the question from Mr. O'Connor is
9 simply: Fear up harsh was one of the techniques that did
10 have Army approval at Abu Ghraib. The answer would be yes
11 or no.

12 THE WITNESS: Yes, Your Honor.

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

14 BY MR. O'CONNOR:

15 Q And you live in Arizona?

16 A I do.

17 Q And you're not here under a trial subpoena; are you?

18 A No, I am not.

19 Q You came here voluntarily?

20 A I did.

21 Q And you took time off from work to travel across the
22 country to testify?

23 A I did.

24 Q Who paid for your travel?

25 A The law firm.

1 Q The law firm representing the detainees?

2 A Yes.

3 Q Okay. And did you meet with the law firm's lawyers to
4 prepare your testimony?

5 A Yes.

6 Q And back in April, you voluntarily traveled across the
7 country to testify in another proceeding in this case;
8 right?

9 A Yes.

10 Q And did you take time off from work?

11 A Yes.

12 Q Who paid for your travel and lodging?

13 A The same law firm.

14 Q Now, you recall that the Taguba report leaked into the
15 media in about May of 2004?

16 A To my knowledge, yes.

17 Q Okay. So let's look at your communications with CACI.

18 Shortly after that, you received a series of calls
19 from a lawyer named Bill Cable; right?

20 A I don't remember his name offhand, but I do remember a
21 number of calls from an individual saying -- stating that
22 they were a lawyer representing CACI, correct.

23 Q And he wanted to interview you to try and get a better
24 picture of things that were going on at Abu Ghraib prison;
25 right?

1 A Correct.

2 Q And you were hesitant to talk to him?

3 A I was.

4 Q And you put him off for a few days?

5 A Yes.

6 Q And he called you several more times trying to set up
7 an interview with you?

8 A Once or twice. A couple times possibly.

9 Q And you remained hesitant to cooperate with CACI?

10 A Yes. I was still debating on whether or not I wanted
11 to speak with their law firm.

12 Q And eventually the lawyer for CACI gave up and said if
13 you want -- we're here if you're willing to talk to us, let
14 us know?

15 A That's correct.

16 Q Let's take a step forward a year to 2005.

17 You were contacted by a lawyer for detainees who
18 were suing CACI; right?

19 A I'm sorry. Could you repeat the question?

20 Q You were contacted by a lawyer named Susan Burke who
21 was representing detainees suing CACI?

22 A Correct.

23 Q And she wanted to talk to you to get a better picture
24 of things at Abu Ghraib prison; right?

25 A Yes.

1 Q And you voluntarily appeared at a hotel in Salt Lake
2 City for an interview that was recorded by a court reporter?

3 A Yes, I believe so.

4 Q And it was a 78-page transcribed interview?

5 A That sounds correct.

6 Q CACI wasn't notified that you were going to sit down
7 and have an interview with the plaintiffs' counsel; right?

8 A I don't know.

9 Q Well, you didn't notify CACI.

10 A Correct.

11 Q You were at Abu Ghraib prison from late November 2003
12 to mid to late January 2004?

13 A At the present, yes.

14 Q How many interrogations did you participate during that
15 time?

16 A I don't remember offhand. I mean, there's settling
17 in --

18 Q Well, you have a really good memory. Can you give me
19 an estimate?

20 A At Abu Ghraib, I'd say 30 to 50 possibly.

21 Q Okay. And there's paperwork associated with those
22 interrogations; right?

23 A Yes.

24 Q Tell the jury the paperwork that is associated with
25 each interrogation that you did at Abu Ghraib prison.

1 A Well, generally there is an interrogation plan that's
2 done beforehand, intelligence reports from production, and
3 an operational report, or an MFR, that is done following the
4 interrogations.

5 Q So if you did 30 to 50 interrogations, you would expect
6 that there are 30 to 50 interrogation plans and 30 to 50
7 interrogation reports from your interrogations; right?

8 A Possibly, yes.

9 Q All right. So you flew over to Iraq in November of
10 2003?

11 A That sounds about right, yes.

12 Q And you were on the same flight as Scott Northrop;
13 correct?

14 A Correct. We flew in together into BIAP.

15 Q And Scott Northrup was CACI's country manager in Iraq?

16 A He was the new incoming country manager, yes. We met
17 at CRC in the CONUS redeployment center at Fort Bliss,
18 Texas.

19 Q And he was normally at Camp Victory?

20 A Yes.

21 Q And he wasn't an interrogator?

22 A No. To my knowledge, no.

23 Q He just had an administrative job to administer the
24 contract for CACI?

25 A As country manager, my understanding was with that he

1 would administrate a number of contracts throughout the
2 country, correct.

3 Q And you arrived at Abu Ghraib prison on November 26th
4 or 27th of 2003?

5 A Might have been just a couple of days earlier than
6 that. I think maybe around the 23rd.

7 Q Okay.

8 A Or 24th.

9 Q All right. Do you agree that CACI interrogators at Abu
10 Ghraib reported through the military chain of command to the
11 military personnel who were running the JIDC at Abu Ghraib
12 as far as operational matters go?

13 A Could you repeat the question, please?

14 Q Yeah.

15 Do you agree with the statement that CACI
16 interrogators at Abu Ghraib reported through your chain of
17 command to the military personnel who were running the JIDC
18 at Abu Ghraib, you would report to the military personnel as
19 far as operational matters go?

20 A That's correct.

21 Q If you had operational issues, you were supposed to
22 take those through the military chain of command; right?

23 A Yes. If there's any operational issues, first go-to is
24 the military.

25 Q And while you were serving at Abu Ghraib prison, you

1 knew that CACI couldn't do anything about operational
2 affairs, intelligence matters, anything like that; right?

3 A That CACI could not do anything?

4 Q While you were serving at Abu Ghraib, you knew that
5 CACI could not do anything about operational affairs,
6 intelligence matters, anything like that?

7 A They couldn't give orders.

8 Q They couldn't do anything about operational affairs,
9 intelligence matters, anything like that; right?

10 A Well, they could pull someone out, one of their
11 employees.

12 Q Can you turn to the binder that you've been provided
13 and take out your statement under oath.

14 MR. O'CONNOR: This is marked as Defendant's
15 Exhibit 94 for identification only.

16 THE COURT: All right. Is it trial testimony?
17 Sworn testimony? What kind of testimony?

18 MR. O'CONNOR: It's his sworn testimony from the
19 2005 court reported interview with Susan Burke in Salt Lake
20 City.

21 THE COURT: Exhibit 94. I got it. Okay.

22 THE WITNESS: Was there an exhibit number?

23 MR. O'CONNOR: It's Exhibit 94.

24 THE WITNESS: Oh, 94. Okay.

25 BY MR. O'CONNOR:

1 Q And I'm going to ask you to turn to page 24. Let me
2 know when you're there.

3 A Page 24. Okay.

4 Q I'm sorry. Let's go back to page 22. I'm at the wrong
5 page.

6 Didn't you testify -- well, when you had your
7 interview with Susan Burke, you took that under oath; right?

8 A Correct.

9 Q And if you look at line 21 of page 22, don't you say:
10 "Not that CACI -- we knew that CACI couldn't do anything
11 really about operational affairs, intelligence matters,
12 anything like that, but at least that they should be aware
13 of the fact that some of the CACI personnel were dealing
14 through the military chain of command with intelligence
15 matters or operational matters"?

16 A That's correct.

17 Q Thank you.

18 In fact, the Army ran operations at Abu Ghraib
19 prison; right?

20 A Day-to-day operations. They are the senior personnel.

21 Q Then you testified on direct examination that Dan
22 Porvaznik was the site lead for CACI at Abu Ghraib prison;
23 right?

24 A That's correct.

25 Q Isn't it true that he handled mainly administrative

1 affairs as a site manager?

2 A Mainly, yes. The majority of his time, absolutely.

3 Q And you testified, I think, that Dan Porvaznik would
4 have had access to interrogation reports?

5 A Yes.

6 Q But that's because he had a security clearance to be
7 able to look at those and was there filling an interrogator
8 role; right?

9 A That's correct.

10 MR. FARIDI: Objection. Foundation.

11 MR. O'CONNOR: He just said yes.

12 THE COURT: I'm overruling that objection.

13 BY MR. O'CONNOR:

14 Q But Dan Porvaznik was more concerned with
15 administrative matters and so forth; right?

16 A To my knowledge, that's correct.

17 Q So during normal parts of work, he was not expected to
18 really be checking up on your work; right?

19 A Correct.

20 Q You testified yesterday that Dan Porvaznik mostly
21 communicated with Amy Jenson outside of Abu Ghraib; do you
22 remember that?

23 A Most of his time, yes, I believe.

24 Q Do you have visibility into who Dan Porvaznik mostly
25 talked to?

1 A No, because most of the time I'm working in the JIDC.
2 But most of the time that I did have interaction with him,
3 it seemed that most of his communication was done with Amy
4 Jenson.

5 Q And those would be things like pay issues, vacation
6 issues, things like that; right?

7 A Well, that's normal. There was a long list of
8 grievances that Dan shared with me that were more than just
9 normal administrative things.

10 Q All right. Are you aware of a single communication,
11 even one, between Dan Porvaznik and Amy Jenson relating to
12 the conduct of an interrogation at Abu Ghraib prison?

13 A A particular interrogation, no.

14 Q Because that was not in her bailiwick at all; right?

15 A She didn't have a need to know, nor was that
16 appropriate to be able to give information like that that
17 could potentially be classified over open lines, which is
18 why we need a site lead on site with a security clearance,
19 like you said.

20 Q And, in fact, it would have been classified, the
21 identities of detainees that particular interrogators were
22 interrogating; right?

23 A Yeah. That would absolutely be crossing the line for
24 sure.

25 Q So Dan Porvaznik certainly would not be permitted to

1 broadcast that to the people in Virginia at CACI?

2 A No, he would not.

3 Q And CACI personnel back in the United States, they
4 didn't have any role with respect to operational matters;
5 did they?

6 A Any role?

7 Q Yeah, that's the question.

8 A I would disagree with that.

9 Q Okay. You have your statement out from 2005 with Susan
10 Burke?

11 THE COURT: That's that exhibit again.

12 MR. O'CONNOR: That's Exhibit 94, Your Honor.

13 THE COURT: Yes. What page?

14 MR. O'CONNOR: 27.

15 THE WITNESS: Which page?

16 MR. O'CONNOR: 27.

17 THE WITNESS: 27.

18 BY MR. O'CONNOR:

19 Q At line 7, Ms. Burke asked you: "What about back in
20 the United States, did you know who was operational in the
21 line of command at CACI back in the United States?"

22 Can you read to the jury what your answer was?

23 A "The operations side, to my knowledge, there was nobody
24 at home office or stateside" --

25 THE COURT: Slow down just a bit, please. Start

1 over and read slowly so the court reporter can get it.

2 BY MR. O'CONNOR:

3 Q Nice and slow and loud for the jury.

4 A "The operations side, to my knowledge, there was nobody
5 at home office or stateside that was CACI that was even
6 concerned with operational matters, and that their concern
7 was administrative matters solely."

8 Q Thank you.

9 Before you could conduct an interrogation, you
10 were required to submit an interrogation plan for approval;
11 right?

12 A That's correct.

13 Q And those interrogation plans were submitted to the
14 Army chain of command?

15 A That's correct.

16 Q And so the first person that you would submit it to,
17 would that be your Army section chief?

18 A Yes.

19 Q And the Army section chief would then move it on to
20 Captain Wood?

21 A Either the NCOIC or the OIC, the non-commissioned
22 officer in charge, or the officer in charge of the
23 interrogation cell. If it needed to go higher, it would.

24 Q But these are all Army people we're talking about?

25 A Correct.

1 Q And your interrogation plan had to be approved by the
2 Army chain of command before the interrogation could move
3 forward?

4 A Correct.

5 Q And that was an absolute requirement?

6 A That's correct.

7 Q If the Army chain of command hadn't approved your
8 interrogation plan, you had to revise it before the
9 interrogation could go forward?

10 A That's correct.

11 Q Who at CACI was an approval point for your
12 interrogation plans?

13 A Nobody.

14 Q Who at CACI's headquarters in Virginia reviewed and
15 approved your interrogation plans?

16 A Nobody.

17 Q As far as you know, has anyone who worked in CACI's
18 Virginia office ever seen an interrogation plan from Abu
19 Ghraib prison?

20 A From Abu Ghraib prison, no. To my knowledge, no.

21 Q The Army chain of command also established the
22 Interrogation Rules of Engagement for interrogations at Abu
23 Ghraib prison; right?

24 A The IROE, the Interrogation Rules of Engagement,
25 correct.

1 Q And the IROEs, the Interrogation Rules of Engagement,
2 they applied equally to the Army and CACI's interrogators?

3 A That is correct.

4 MR. O'CONNOR: Can we put up Defense Exhibit 42.

5 Your Honor, we would move that into evidence.

6 THE COURT: I assume there's no objection?

7 MR. O'CONNOR: It's the IRO.

8 MR. FARIDI: No objection, Your Honor.

9 THE COURT: All right. It's in. Again, this is
10 Plaintiffs' Exhibit 42.

11 MR. O'CONNOR: Oh, I'm sorry. Plaintiffs'
12 Exhibit 42. My apologies.

13 THE COURT: It's in.

14 (Plaintiffs' Exhibit Number 42 admitted into evidence.)

15 BY MR. O'CONNOR:

16 Q Mr. Nelson, this was the Interrogation Rules of
17 Engagement that was posted at Abu Ghraib prison; isn't it?

18 A To my understanding, yes.

19 Q And who promulgated the IROs?

20 A I'm not sure of your question.

21 Q These are promulgated by the Army; right?

22 A Are you looking for a particular individual?

23 Q Well, if you have one.

24 A No, I don't.

25 Q But by the Army; right?

1 A That's my understanding, correct.

2 Q And do you see at the bottom in the middle where it
3 says: "Everyone is responsible for ensuring compliance with
4 the IRO"?

5 A Yes.

6 Q And it says: "Violations must be reported immediately
7 to the OIC"?

8 A Yes.

9 Q And so the Army, through the IROs, dictated that anyone
10 seeing a violation of the IROs needed to report those
11 immediately to the OIC?

12 A Correct.

13 Q The OIC was Captain Wood?

14 A I believe so.

15 Q And after you finished your investigation, you had to
16 complete an interrogation report?

17 A Yes.

18 Q And they were --

19 MR. O'CONNOR: You can take that down.

20 BY MR. O'CONNOR:

21 Q They were submitted into a classified Army database?

22 A Yes.

23 Q And the reports you wrote went in the same database
24 that reports that Army interrogators wrote?

25 A They should.

1 Q And the requirement to post these interrogation reports
2 into the Army database, that was imposed by the U.S. Army?

3 A Yes.

4 Q Can you think of a single time that you had a
5 communication with CACI personnel in Virginia about a
6 detainee you were interrogating?

7 A No.

8 Q Are you aware of a single communication between any
9 CACI interrogator at Abu Ghraib prison and any CACI employee
10 in Virginia about the interrogation of a detainee?

11 A No.

12 Q You testified earlier that CACI interrogators were
13 subject to the Army chain of command for operational
14 matters; right?

15 A Yes.

16 Q And that was also true of military interrogators?
17 Military interrogators, they were also subject to the
18 military chain of command?

19 A Yes.

20 Q Were you in the chain of command over any military
21 interrogators?

22 A No, I was not.

23 Q Let me ask you this: If you had seen a military
24 interrogator violating the IROs in his treatment of a
25 detainee, you would have stopped him; wouldn't you?

1 A Anything that departed from the Interrogation Rules of
2 Engagement that I was able to ascertain was going on
3 directly in front of me, yes, I would have.

4 Q Sometimes you might see treatment, you don't know if
5 it's been approved or not?

6 A Exactly.

7 Q But if you see something that is never able to be
8 approved, you would have stepped in and stopped that
9 soldier?

10 A Yes.

11 Q But you weren't supervising that soldier or controlling
12 that soldier; right?

13 A No.

14 Q This is just an obligation that everyone at Abu Ghraib
15 had to ensure compliance with the IROs?

16 A That's correct.

17 Q When Army CID began investigating detainee abuse in
18 January of 2004, you filled out a canvass form asking what
19 you knew about detainee abuse?

20 A That's correct.

21 Q And you were asked whether you had ever seen any
22 photographs of detainees other than those authorized for
23 official use?

24 A That's correct.

25 Q And you answered no?

1 A That's correct.

2 Q And you were asked if you had ever seen photographs of
3 detainees being abused or humiliated; right?

4 A That's correct.

5 Q And you answered no?

6 A That's correct.

7 Q And you were asked if you knew of any circumstances
8 where military police working within the detention facility
9 were used to soften up or prepare detainees for
10 interrogations by giving them physical fitness or other acts
11 to sway the detainee to cooperate; right?

12 A That's correct.

13 Q And you answered no?

14 A That's correct.

15 Q And you were asked if you had ever witnessed any acts
16 of abuse of maltreatment while working at the detention
17 facility; right?

18 A That's correct.

19 Q And you answered yes to that; right?

20 A I believe so.

21 Q Okay. Well, let's take it up. It's Plaintiffs'
22 Exhibit 216.

23 THE COURT: All right. Any objection to
24 Plaintiffs' 216?

25 MR. FARIDI: No objection, Your Honor.

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

2 (Plaintiffs' Exhibit Number 216 admitted into evidence.)

3 MR. O'CONNOR: Could we publish it?

4 BY MR. O'CONNOR:

5 Q Is this the canvass form that you filled out?

6 A I believe so, yes. It looks like. It looks like my
7 handwriting.

8 MR. O'CONNOR: Take that down. Take that down.
9 Take that down. It has your Social Security number on the
10 first page.

11 THE COURT: All right. We'll make it part of the
12 record, but you have to redact it.

13 MR. O'CONNOR: We'll redact it for the record,
14 Your Honor.

15 BY MR. O'CONNOR:

16 Q But as far as when you answered that you had witnessed
17 acts of abuse or mistreatment and you answered yes, you gave
18 additional information on the back of the page; right?

19 A That's correct.

20 Q And said see -- it says Number 1 on back.

21 MR. O'CONNOR: Okay. We can put it back up.
22 We've redacted it, but we're going to go to page 2 now.

23 BY MR. O'CONNOR:

24 Q And Number 1 where you talked about the -- what you had
25 witnessed, you talk about in November of 2003, you were

1 observing activity in the screening room -- screening area,
2 and you observed a black male MP, approximately 20 to
3 25 years of age, leading detainees through the in-processing
4 area; right?

5 A Correct.

6 Q And the MP -- you went on to say: "The MP would lead
7 the detainees by grabbing one and shoving him into the room
8 or in the direction he wanted the detainees to go"; right?

9 A Correct.

10 Q And then you added: "The MP seemed to be angry at the
11 detainees who were silent and compliant."

12 A Correct.

13 Q That was the -- as of January of 2004, that was the
14 only positive response you gave to whether you had witnessed
15 any acts of abuse or maltreatment while working at the
16 detention facility?

17 A I'm not sure if -- what exactly I put on Block
18 Number 2.

19 Q Okay.

20 A Because I put a yes on it and referred to Block
21 Number 2 on the front page.

22 Q Okay. I'm going to give you a document to refresh your
23 recollection.

24 MR. FARIDI: Your Honor, we have no objection to
25 the admission of this document.

1 MR. O'CONNOR: I'm not asking to admit it.

2 THE COURT: I'm sorry, you have no objection?

3 MR. FARIDI: No objection.

4 MR. O'CONNOR: I'm not asking to admit it; I'm
5 asking to refresh the witness's recollection, Your Honor.

6 THE COURT: Well, it's difficult to read anyway,
7 but go ahead. So take a look at that.

8 BY MR. O'CONNOR:

9 Q And your response discusses an event that somebody who
10 you can't even remember told you that that person had seen;
11 right?

12 A Yes.

13 Q And your first word was hearsay?

14 A Yes.

15 Q Okay. So, Number 1, the event with -- in the screening
16 room with the MP pushing some detainees, that was the only
17 act of abuse or maltreatment that you had seen that you
18 reported when you did your CID canvass report?

19 A Correct.

20 Q Thank you.

21 You came back to Virginia in May of 2004 to meet
22 with Major General Fay's investigation team; right?

23 A End of May, beginning of June of 2004, I believe.

24 Q And you told -- well, let's start with, you first met
25 with General Fay, and you were reluctant to speak with him

1 unless they gave you immunity from prosecution; right?

2 A That's correct.

3 Q Do you have any reason to believe that you were at risk
4 of prosecution?

5 A I didn't, but a friend of mine who was a lawyer
6 recommended that I ask for that.

7 Q And they ended up refusing to give you immunity; right?

8 A Correct.

9 Q And you did end up talking to General Fay?

10 A Yeah, the next day.

11 Q And you told him that the only incidence of detainee
12 abuse that you were aware of were the ones in your statement
13 and in your prior statements to CID?

14 A That's correct.

15 Q You also told Major General Fay's investigation team
16 that you never saw dogs being used in interrogations at Abu
17 Ghraib?

18 A Not in interrogations, no.

19 Q You also told Major General Fay that you never saw any
20 naked detainees?

21 A That's correct.

22 Q And so in the entire time that you were at Abu Ghraib
23 prison and you were conducting 30 to 50 interrogations of --
24 are those all hard site detainees?

25 A No. Some of them were the regular MI hold. We had

1 about 10,000 people in the overall compound. About 1,000
2 were in MI hold, they were out in what would be called a
3 tent city, and then there was the hard site for particular
4 individuals.

5 Q About what percentage of your interrogations were
6 individuals who were in the hard site?

7 A Maybe 30 percent --

8 Q Okay.

9 A -- offhand.

10 Q And so all the -- and you would go to the hard site to
11 get the detainee and take them somewhere to be interrogated?

12 A Generally, yes.

13 Q And so all the times that you went into the hard site
14 for interrogations, you never saw a naked detainee?

15 A No. Semi naked one once.

16 Q You never saw dogs being used for an interrogation?

17 A Not for an interrogation. I saw dogs, but not for
18 interrogations.

19 Q You never saw any detainee being abused in the hard
20 site when you were in there?

21 A Physically abused, no.

22 Q Because when you did the canvass report, you said you
23 had never seen any abuse of detainees other than what
24 happened in the screening room with an MP?

25 A Yes.

1 Q And back -- let's go to January of 2004.

2 You made -- you went and met with CID because they
3 were now investigating detainee abuse; right?

4 A Correct.

5 Q And you made a statement on January 21, 2004?

6 A I signed the statement that was written up for me. I
7 believe I actually made the statement a day or two before
8 that, correct.

9 Q And in the statement, you said that the people you
10 suggest that CID look at are Dan Johnson and Tim Dugan?

11 A Correct.

12 Q Now, at the time, you didn't really have anything on
13 Dugan and Johnson as it related to detainee abuse; did you?

14 A Anything? No, I disagree with that.

15 Q Okay. In fact, you've testified that you told -- what
16 you told CID was: "I don't have anything really damning,
17 but go ahead and take this, and maybe if it helps your
18 investigation, it does."

19 A Yeah. That's not solid enough. That's why I didn't
20 report it beforehand, like you asked.

21 Q But you hadn't substantiated it?

22 A I hadn't substantiated it, no. I was waiting. I was
23 trying to.

24 Q And you believed that CID was going to keep your
25 identity confidential?

1 A Correct.

2 Q And the next day you walked past Dugan, and he ignored
3 you?

4 A Yes.

5 Q And he ended up saying, you better watch your back,
6 you're dead to me, I'm through with you; right?

7 A Correct.

8 Q And, at that point, you acted innocent of the whole
9 affair and went looking for Dan Porvaznik to find out what
10 was going on; right?

11 A Correct.

12 Q And Porvaznik told you that he thought Dugan believed
13 you had said something about him to CID?

14 A Yes.

15 Q And, in fact, that was true; right?

16 A Yes.

17 Q But you looked Dan Porvaznik in the eye and said that
18 wasn't true?

19 A Absolutely.

20 Q And you didn't think Dan believed you?

21 A No.

22 Q And it bothered you?

23 A Yes.

24 Q It bothered you that Dan Porvaznik thought you were
25 lying when you were, in fact, lying; right?

1 A Yes.

2 THE COURT: All right. I think at this point it's
3 lunchtime. We're going to take our -- try to stay on
4 schedule.

5 So we're on break until 2:00, folks. You're free
6 to go outside and enjoy the fresh air. Just please be back
7 here by 2 so we can continue with the testimony.

8 Thank you.

9 (Jury not present at 1:01 p.m.)

10 -----

11 I certify that the foregoing is a true and accurate
12 transcription of my stenographic notes.

13

14

Stephanie Austin

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Stephanie M. Austin, RPR, CRR

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