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SECRET

1 [The court-martial was called to order at 1139, 7 August 2013.]

2 MJ: Court is called to order.

3 Let the record reflect that all parties present when the
4 Court last recessed are again present in court. The witness is on
5 the witness stand.

6 Major Fein, please announce the status of the hearing.

7 TC[MAJ FEIN]: Yes, ma'am. Ma'am, this is a closed session,
8 classified at the SECRET level. The court security officer completed
9 a closed hearing checklist which will be filed with the post-trial
10 allied papers. Also present with the parties is the bailiff, the
11 Court's paralegal, members of the defense team, members of the
12 prosecution team, and court security.

13 MJ: Captain Overgaard?

14 ATC[CPT OVERGAARD]: Yes, ma'am.

15 JAMES McCARL, civilian, already on the stand as a witness for the
16 prosecution, was reminded of his oath, and testified as follows:

17 **DIRECT EXAMINATION**

18 **Questions by the assistant trial counsel [CPT OVERGAARD]:**

19 Q. In the open session we talked about the severity of the
20 threat that was evaluated by your team. Could you go into and
21 explain, first, what low severity meant?

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1 A.

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5 Q. Okay. And then, you said,

Could you

6 tell us what that means?

7 A.

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11 Q. And finally,

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13 A.

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17 MJ: Say that one more time.

18 WIT:

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3 Q.

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5 A.

6 Q.

7 A.

8 Q.

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10 A.

11 Q.

12 A.

13 Q.

14

15 A. Correct.

16 Q. And,

17

18 A.

19 Q. And, what did you do after you determined--you made these
20 determinations, what happened next?

21 A. So, the entire product was packaged together. You are
22 asking about process now? Are you talking about disposition?

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1 Q. Yes, sir.

2 A.

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10 Q. And sir,

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13 A.

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MJ: You said, are you talking about one?

WIT: I am sorry, well in this case she asked for an example,
, correction, it was a--I am
thinking about something different. A series--actually a series of
messages in there that identified that.

Q.

A. Yes.

Q.

A. I do not recall which one it was. I think it actually was
in those but that is a faint recollection that it was in both.

Q. And sir,

Was there--could you give an example,
for example,

Q.

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10 Q. And sir, in your opinion,

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12 A.

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14 Q. Yes, sir.

15 A.

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13 Q.

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18 A.

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Q.

A.

ADC[MAJ HURLEY]: Objection, ma'am.

MJ: Yes?

ADC[MAJ HURLEY]:

MJ: Got it.

ADC[MAJ HURLEY]: Sorry to interrupt, Your Honor.

MJ: That is fine. Go ahead.

A. So, what would you like me--how do you want me----

Q.

A.

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11 ADC [MAJ HURLEY]: Pardon me, ma'am.

12 MJ: Yes?

13 ADC [MAJ HURLEY]: 1001(b)(4).

14 MJ: Got it.

15 Q.

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17 A.

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Q. So, talking about those specific examples,

A.

MJ: Yes? Hold on just a moment.

ADC[MAJ HURLEY]: Ma'am, the hand gestures of the witness, I have the same question.

MJ: Okay, I can't see them.

WIT: Okay, so----

ADC[MAJ HURLEY]: He said,

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1 MJ: Describe for the record please.

2 A.

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4

5 Q. Thank you, sir.

6 A.

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9 MJ: What do you mean by

10 A.

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15 Q.

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17 A.

18

19 Q. Okay.

20 A.

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3 Q. Yes, sir. So, in your opinion,

4

5 A.

6 Q.

7 A.

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11 MJ: How many?

12 A.

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1 ADC[MAJ HURLEY]: Ma'am, if we may just put this on the record
2 and then obviously reiterate in our filing. We would make an
3 objection under 1001(b)(4). Also, the speculative nature of the
4 testimony that Mr. McCarl just rendered and we believe it also
5 exceeds the foundation of his expertise.

6 MJ: Okay, on the final basis, that is overruled.

7 But go ahead, okay.

8 Q. Sir, you said the And, you talked
9 about--you said,
10
11

12 A. It runs generally parallel. We just looked at it from
13 2009. We went back and looked back at the numbers reported--
14

15 So, they run something in a parallel
16 course.

17 Q.

18 A. Correct.

19 Q.

20

21 A. It is.

22 Q.

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1 MJ: Let me stop you there.

2 WIT:

3 MJ: Thank you.

4 WIT: I'm sorry. Say your question again, I'm sorry.

5 Q.

6

7 A.

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13 ATC[CPT OVERGAARD]: One moment please.

14 [The trial counsel conferred.]

15 ATC[CPT OVERGAARD]: Thank you, sir; ma'am.

16 Q.

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18

19 A. Well, in all of those categories they were there,

20

21

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1 MJ: , what?

2 WIT:

3 MJ: Okay.

4 WIT: When I say,

5 MJ: Okay.

6 A.

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17 ADC[MAJ HURLEY]: Ma'am, the same 1001(b)(4) objection.

18 MJ: Okay.

19 Q. And, you said that was

20

21 A. Yes.

22 Q. Did you

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1 A.

2 Q.

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5 A.

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Q. In that movement away, did that start after WikiLeaks, or after the release of that Department of State cable?

A. That really began within the last, the significant move, really began within the last year, within the last year.

ADC[MAJ HURLEY]: Pardon me----

MJ: I have got the objection.

ADC[MAJ HURLEY]: Thanks, ma'am.

MJ: Let me just stop you there and ask you this question then. If it started this year, how do you correlate that with WikiLeaks release?

WIT:

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3 MJ: All right, thank you.

4 **DIRECT EXAMINATION CONTINUED:**

5 Q.

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9 A.

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15 A.

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ADC[MAJ HURLEY]: Captain Overgaard--

ATC[CPT OVERGAARD]: No further questions, thank you.

MJ: Defense?

ADC[MAJ HURLEY]: Yes, ma'am. Mr. McCarl, ma'am, it's going to take a second to get organized, if that's okay?

MJ: That's fine.

CROSS EXAMINATION

Questions by the assistant defense counsel [MAJ HURLEY]:

Q. Good morning, Mr. McCarl.

A. Good morning.

Q. Sir,

A.

Q.

A.

Q.

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1 A.

2 Q.

3

4 A. No.

5 Q.

6

7 A.

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14 Q. Gotcha, sir. So, if that

15

16 A.

17 Q. Yes, sir.

18 A. Well,

19

20 Q. Sir, take your time.

21 MJ: Do you have some water there--okay.

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1 A.

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5 Q.

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7

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9 A.

10 Q.

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12 A.

13 Q.

14 A. Yes.

15 Q. And, it could go all the way through

16 A. Right.

17 Q.

18 A. Right.

19 Q.

20 A. Yes.

21 Q. Were you aware of a

22

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3 A.

4 Q. Were you aware--So,

5

6

7 A. No.

8 Q. You are aware that

9

10 A. I am.

11 Q.

12

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17 A.

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20 Q.

21 A.

22

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3 Q.

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8 A. Say that--read it again.

9 Q.

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16 A.

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6 Q.

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8 A.

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1 Q. So, let us take a timeout from this discussion that we are
2 having right now and go back to the overarching line of questioning,
3 Mr. McCarl.

4 A. Okay.

5 Q.

6

7

8 A.

9

10

11 Q. But,

12

13

14 A. Yeah, sure. Absolutely.

15 Q.

16

17 A.

18

19 Q. And, I guess

20

21

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1 A. That is a true statement but I do not know that it makes
2 any difference, but go ahead.

3 Q. But,

4

5 A.

6

7

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11 Q. But, it does make some?

12 A. Sure.

13 MJ:

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16 WIT: Well,

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3 MJ: Go ahead, Major Hurley, sorry to interrupt you.

4 ADC[MAJ HURLEY]: That is fine, ma'am, thank you.

5 Q. Sir,

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14 A.

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18 Q.

19

20 A. All right.

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1 Q.

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4 A.

5 Q.

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12 A.

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Q. Well Sir, let me break it down then bit-by-bit, all right?

16

A. Okay.

17

Q. And again,

18

19

A. Yes.

20

Q.

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1 A. Again,

2

3

4 Q. Now sir, another reasonable inference could be that--

5 . I am sort of getting back to

6 the original line of questioning.

7

8

9 A. Yes.

10 Q.

11 A. Yes.

12 Q. I have been known to mispronounce things.

13

14 A. Yeah, I would say it has a public profile.

15 Q. And, it has got that

16

17 A. Sure.

18 Q. And, one of those reasons would be

19

20 A. Yes.

21 Q. In its role,

22 a. Yes.

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1 Q. are

2

3 A. Yes.

4 Q. And, as unclassified report,

5

6 A. Yes.

7 Q. And, one of those reports is an

8

9 A. Yes.

10 Q. Do you have anything to do with the

11

12 A.

13

14 Q. We will

15

16 A. We will--me personally?

17 Q. Yes, sir.

18 A. Normally, I have not, but others do.

19

20 Q. Sir, would you recognize the report if you look at it?

21 A. Probably, but I do not----

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1 Q. And, I do have a couple of reports I am going to show you
2 in a second.

3 [Defense Exhibits GGG and HHH were marked for identification.]

4 MJ: Government, have you received those in discovery?

5 TC[MAJ FEIN]: We do not think so, ma'am. We are just looking
6 at real quick to see if it is the first time we have seen it.

7 MJ: Why not?

8 ADC[MAJ HURLEY]: Ma'am, when we understood the breadth of Mr.
9 McCarl's opinion today, we looked online to see if--what JIEDDO,
10 anything they had published with respect to these

11

12 MJ: All right, why did not you give it to the government before
13 you begin your cross-examination?

14 ADC[MAJ HURLEY]: Ma'am, I apologize for that. I should have.

15 MJ: Because it is causing some delay.

16 ADC[MAJ HURLEY]: Yes, ma'am. This will not happen again.

17 MJ: Government, do you need a recess?

18 TC[MAJ FEIN]: May we have a moment, Your Honor?

19 MJ: Yes.

20 [Pause]

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1 TC[MAJ FEIN]: Ma'am, if possible, maybe a recess in place just
2 to make a copy and then after cross-examination we will probably ask
3 for a recess to actually go through it just so we can follow along.

4 MJ: That is fine.

5 TC[MAJ FEIN]: May I have a brief in-place recess?

6 MJ: Court is in recess in place.

7 [Pause]

8 MJ: All right, the recess is not in-place. Please let me know
9 when you are ready to go.

10 **[The court-martial recessed at 1233, 7 August 2013.]**

11 **[The court-martial was called to order at 1241, 7 August 2013.]**

12 MJ: Court is called to order.

13 Let the record reflect all parties present when Court last
14 recessed are again present in court. The witness is on the witness
15 stand.

16 Are we ready to proceed?

17 ADC[MAJ HURLEY]: Yes, ma'am.

18 MJ: Go ahead.

19 ADC[MAJ HURLEY]: Ma'am, first before I recommence the cross-
20 examination I would like to say I apologize for the delay. It is the
21 position of the defense that this information is not discoverable,
22 that we are using it under the auspices of 608(c). But, even----

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1 MJ: So, 608(c) evidence is not discoverable?

2 ADC[MAJ HURLEY]: Even then, ma'am--well, ma'am, it is the
3 position of the defense that it is not. But, even then----

4 MJ: Under what authority is that?

5 [Pause]

6 MJ: Well, I disagree.

7 ADC[MAJ HURLEY]: Yes, ma'am.

8 MJ: So, from now on please make it available in discovery.

9 ADC[MAJ HURLEY]: Yes, ma'am.

10 **CROSS-EXAMINATION**

11 **Questions by the assistant defense counsel [MAJ HURLEY]:**

12 Q. So, sir, I was--May I approach, Your Honor?

13 MJ: Yes.

14 ADC[MAJ HURLEY]: I am handing the witness what has been marked
15 as Defense Exhibit HHH for identification.

16 Q. Sir, take a second and when you are done just briefly
17 skimming that document, if you would look up at me.

18 [The witness did as directed]

19 Q. Sir, just let me interrupt you, does that look like the
20

21 A. It does.

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1 Q. And, you know that because that is the general format of
2 fiscal year reports?

3 A. Yes.

4 Q. Sir, if I could direct your attention to page 14, I believe
5 it is in the upper--and, if I may take a back from you just to make
6 sure I get it right. Can I take this back from you? [Pause] I am
7 handing Defense Exhibit HHH for identification back to the witness.
8 Sir, in the upper right-hand corner does it mention

9

10 A.

11 Q.

12

13 A.

14 Q. Yes, sir.

15 MJ: Excuse me, I did not hear that.

16 MJ:

17 ADC[MAJ HURLEY]:

18 MJ:

19 Q. I am retrieving from the witness Defense Exhibit HHH for
20 identification. Sir,

21 A. I am not personally involved with that particular aspect of
22 it, so the answer is I do not deal with that. No.

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1 Q. Do you understand, generally, its function?

2 A.

3 ADC[MAJ HURLEY]: Ma'am, may I approach?

4 MJ: Yes.

5 ADC[MAJ HURLEY]: I am returning to the witness Defense Exhibit
6 HHH for identification.

7 Q.

8 Mr, McCarl?

9 [The witness did as directed.]

10 MJ: Is that on the same page?

11 ADC[MAJ HURLEY]: Yes. Yes, ma'am.

12 WIT: Yes, I see it.

13 ADC[MAJ HURLEY]: I am retrieving from the witness Defense
14 Exhibit HHH for identification.

15 Q.

16

17 A. I do. In that report, I do.

18 Q. Right, just based on what you have seen?

19 A. Right.

20 Q.

21

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3 A.

4 Q.

5

6 A. Yes.

7 Q.

8 A. That is correct.

9 Q.

10

11

12 A. Yes.

13 Q. Right?

14 A. That is correct.

15 Q. In,

16 A. Yes.

17 Q. And sir,

18 A. I believe that is what it says, yes.

19 Q. And,

20

21

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1 ADC[MAJ HURLEY]: Yes, ma'am. It is Defense Exhibit GGG. This
2 is a report for--well, let me get that that information from the
3 witness.

4 Q. And, this is for--it appears to be for fiscal year 2010?

5 A. Yes.

6 Q. Sir, would you just take a quick look at that report to
7 verify that it contains the information normally included in
8

9 [The witness did as directed.]

10 A. Yes.

11 Q.

12

13

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16

17 A. Right.

18 Q.

19 A. Right.

20 Q. And again,

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1 A. That is correct, I am familiar with it but not an

2

3 Q. So, independent of that report,

4

5 A. I am.

6 Q. Does--in your mind, does what is in the report accurately,

7 if in an unclassified way,

8 A. It does.

9 Q. Thanks. I am retrieving from the witness Defense Exhibit
10 GGG that has been marked for identification.

11

12

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15 A.

16 Q.

17 MJ: Said that once again.

18 ADC[MAJ HURLEY]: Yes, ma'am.

19 Q.

20

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1 A. Yes.

2 Q. And, in what way would it help them?

3 A. Well,

4

5

6 Q. But, it does describe the general purpose of the system?

7 A. It does.

8 Q. And,

9

10 A.

11 Q.

12

13 A.

14

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1 Q.

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3

4

5 A. Say that again.

6 Q. Yeah, it was a convoluted question, I apologize. You are

7 in the IED business?

8 A. Right.

9 Q. Wearing your red hat----

10 A. Right.

11 Q.

12

13 A. Right.

14 Q.

15

16

17 A.

18

19 Q.

20

21 A.

SECRET

SECRET

1 Q.

2

3

4

5 A. Yeah, I agree.

6 Q. And sir, is there a process, and this goes to a lot of your
7 experience but also your personal experiences at JIEDDO. Is there a
8 process through which potentially public statements are vetted, and
9 by potentially public statements let me dial you in a little but more
10 on that, sir; potentially public statements about what JIEDDO is
11 doing? Is there a process through which they are vetted?

12 A. There is a strategic--STRATCOM office at JIEDDO who is
13 responsible for all of those public releases.

14 Q. To your knowledge, is permission required before you would
15 engage in an on the record conversation with a reporter about IED
16 capabilities?

17 A. An on the record--yeah, I think you would have to clear
18 that with STRATCOM.

19 Q. You would have to clear the event itself, that you are
20 actually going to talk to a reporter, right?

21 A. Yes.

SECRET

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1 Q. And, you would also be advised to clear the subject matter
2 of what you are going to talk to the reporter about?

3 A. Yes.

4 Q. So, you would have confidence that if a person is quoted on
5 the record by a reporter that that has been cleared by JIEDDO?

6 A. Well, if the system is in place and everybody followed it,
7 yeah, sure. The answer is yes.

8 Q. Sir, do you know who Colonel Dick Larry is?

9 A. I do not know Colonel Larry.

10 Q. All right, sir, than what I will do is again just like
11 before I will go through some information and you tell me whether or
12 not you agree with what is relayed, in your status as an expert, all
13 right?

14 A. All right.

15 Q.

16

17

18 A.

19 Q.

20

21

22 A. No.

SECRET

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1 Q. Because he has the bureaucracy that you talked about with
2 Captain Overgaard on direct, right?

3 A. It is a different bureaucracy, but he has one.

4 Q. But you----

5 A. It is far more streamlined than ours is, that is the point.

6 Q. And much more flexible in a way, right?

7 A. Still has the same kind of
8 in a different form.

9 Q. You would agree that in your status at JIEDDO,
10

11 A. Yes.

12 Q. And,
13

14 A. Right.

15 Q. JIEDDO has got to think through that problem set, right?

16 A. Right.

17 Q. Just like any Army person would do when prudently planning?

18 A. Right.

19 Q. And, not only does it have to think through the problem
20 set, action, counteraction, reaction, it will be advisable for JIEDDO
21 to push it all the way to its logical limits?

22 A. If you can see there, yes.

SECRET

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1 Q. Right, the logical limits. So, it would be advisable to
2 think, if you could think, three steps ahead?

3 A. Yeah.

4 Q. If it was possible?

5 A. Yeah.

6 Q. And, I am going to direct you to a specific time.

7 the next series of questions are focused in
8 that time. All right, sir?

9 A. Okay.

10 Q. Would you agree,
11

12 A.

13 Q.

14 A.

15 Q.

16

17

18

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20 A.

21 Q. So sir,
22

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1 A. Right.

2 Q. And, that this has been your business the entire time, that
3 is dealing with the threat analysis for IEDs?

4 A. Yes.

5 Q. And, you did that in Iraq--or you do that for Iraq?

6 A. For Iraq and Afghanistan.

7 Q. And before that you were a career military intelligence
8 officer?

9 A. And had substantial experience on active duty after
10 September 11th?

11 A. Yes.

12 Q. In fact, your whole adult life has been dedicated to
13 intelligence related activities?

14 A. Yes.

15 Q. And, that is both with the Department of the Army?

16 A. Yes.

17 Q. And the Department of Defense?

18 A. Correct.

19 Q. So, let's talk about the threat generally, with respect to
20 IEDs. JIEDDO was stood up in 2006?

21 A. Right.

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1 Q. Stood up in response to an acute need to develop IED TTPs
2 and address the IED threat--I can rephrase that question if it would
3 help.

4 A. It was stood up to deal with the IED threat, yes.

5 Q. Now, IEDs are, I guess by their very nature, improvised,
6 right?

7 A. Right.

8 Q.

9

10 A.

11 Q.

12 A.

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14

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17

18 Q. And, when comes to IED tactics as you just indicated in
19 your answer,

20

21 A.

22

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1 Q. And, sir, that is the point I was getting at. So, there is
2 an evolution but at some point

3

4 A.

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7

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9 Q.

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11

12 A.

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15 Q.

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17 MJ: Say that question one more time

18 ADC[MAJ HURLEY]:

19

20 A.

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1 Q.

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4 A.

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14 Q.

15 A.

16

17 Q.

18

19 A.

20 Q.

21 A.

22 Q.

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SECRET

1 A. Correct.

2 Q.

3

4 A. Yes.

5 Q.

6 A. Right.

7 Q.

8

9 A. Yes.

10 Q.

11

12 A. Yes.

13 Q.

14

15 A. Yes.

16 Q.

17 A. Yes.

18 Q.

19 A. Yes.

20 Q.

21

22 A. Yes.

SECRET

SECRET

1 Q. And this information--we will take a quick aside.
2 Generally as I understood your testimony from Captain Overgaard,

3

4 A. That is one level.

5 Q.

6 A.

7 Q.

8 A.

9 Q.

10

11

12 A.

13

14 Q.

15

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17

18 A.

19 Q.

20 A.

21 Q.

22 A.

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1 Q.

2 A.

3 Q.

4

5

6 A. Yes.

7 Q.

8

9 A. Yes.

10 Q.

11 A. Generally speaking, that is correct.

12 Q.

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16 A.

17 Q.

18 A.

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Q.

A.

Q.

A. Yes.

Q. Sir, you talked about the organization of your team and I just wanted over that real quick.

A.

Q. So,

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1 A. A sister division that I draw upon to do our work.

2 Q. So ORSA, and I will just use that expression from now on,
3 ORSA is a sister division to you and not a part of your organization?

4 A. Correct.

5 Q. And, the other part of the organization to you talked about
6 with Captain Overgaard was

7 A. Right.

8 Q. But , they report to you?

9 A. They do.

10 Q. And then another part of the team was

11 A. Correct.

12 Q. And, reports to you?

13 A. Yes.

14 Q.

15

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18 A. Yes.

19 Q. What information did you consider?

20 A.

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Q.

A. Wasn't the question that was asked. The question that was asked was, here are a set of leaked documents. What do you think the possible loss as a result of these documents is?

Q. Well, sir, I guess I am having a hard time understanding. If the information is already out there than a loss from leaked documents would be less acute, right?

A. A----

Q. The--go ahead, sir.

A.

Q. And, you did not expand the search to see if that information had already been essentially published to the threat?

A. We did not look beyond the assigned set of documents.

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1 Q. So, you wouldn't know that there was--that
2 had been leaked --that that would
3 not be something that would--that wouldn't be information that made
4 it to you?

5 A. If it was not provided to us in the documents by CENTCOM,
6 then we did not--we were not examining that.

7 Q. And, you would not, likewise--and,

8

9 A.

10 Q.

11 A.

12 Q. And, what you have done in order to prepare for your
13 testimony

14

15 A.

16

17 So, that is why we look at it.

18 Q. So, that is information that you--the analysis was--

19 that is

20 information that you just already know because of your job?

21 A. It is--yeah, yes.

SECRET

SECRET

1 Q.

2

3 A.

4 Q.

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6

7 A.

8 Q.

9

10

11 A.

12 Q.

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15 A.

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17 Q. Things just--with respect to that, they discontinued the
18 process that was already working?

19 A.

20

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SECRET

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3 Q. Sir, just for clarity,

4 A. It is a

5

6

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8 A. Yes, sir.

9 Q. Pardon me for a moment. [Pause] Sir,

10

11

12 A.

13

14 Q. And again, at the

15

16

17 A.

18

19 Q.

20

21 A.

SECRET

SECRET

1 Q. Sir, in your military experience, you are where that field
2 manuals are available on the Internet?

3 A. Yes.

4 Q. And, you are aware that there are improvise explosive
5 device defeat manuals available on the Internet?

6 A. Yes.

7 Q. And those improvised explosive defeat manuals are published
8 by the United States Army?

9 A. Well, it depends on which one you are referring to, but
10 yes, Department of Defense.

11 Q. Is FMI 3-34.119 Improvised Explosive Device Defeat, is that
12 publicly available?

13 A. I have to see the cover on it, I cannot recognize that
14 particular title on it.

15 Q. But, you would agree with the general idea that there are
16 several CID manuals published by the Department of Defense that are
17 available that are unclassified?

18 A. Yeah, there are and they are published and disseminated to
19 Soldiers.

20 Q. Sir, just one second. [Pause.] Sir, you are familiar with
21 the nature of the threat in both Iraq and Afghanistan?

22 A. Yes.

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1 Q. You would characterize the Afghans as--Afghanistan has a
2 literacy problem?

3 A. Yes.

4 Q. A severe literacy problem?

5 A. That is fair.

6 Q. The threat in Iraq was a little more sophisticated?

7 A. Yes, on one level anyway.

8 Q. What was that level?

9 A. Well,

10

11

12

13 Q. Thank you, sir. So sir, in your expertise, in this
14 situation you cannot identify a cause and effect, right,--and, let me
15 restate that. You cannot say the WikiLeaks disclosures caused 'X';
16 some specific thing--operational thing on the battlefield?

17 A. I have said all along that it was inferred and you know, it
18 is an assessment that we see, we believe, if we had to make the call
19 that is when we would call it. You are correct, I cannot say, "This
20 leak went to this guy and he did 'X'."

21 Q. It is an inference based on the data that you have?

22 A. That is correct.

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1 Q. Sir, just one second. [Pause] Sir, finally, as you sit
2 here today, can you remember specific facts like, "This SIGACT
3 contained this information." Or, is it, as the time has passed that
4 you just recall themes and areas?

5 A. I can remember some of the SIGACTS, but as you know, there
6 were 111 of them--11 reports for Iraq and nearly 4000 for
7 Afghanistan, so I do not recall all of them. But, I can pick out
8 selected ones.

9 MJ: There were 111 reports?

10 WIT: 111,000.

11 Q. So, you can speak--

12

13

14

15 A. I cannot recall--I cannot recite the specific text of the
16 message. Again, my analysts were the ones that did the work and so I
17 have the summary of what that finding was. There are other ones
18 where I can--we can,

19 , I can talk to you about

20 those. But, that is not what you are asking me. I cannot recall

21 all--each and every one of those.

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1 Q. Thanks, sir. And, what you are operating off of were the
2 reports that were provided to you by your subordinates on your team?

3 A. The analysis that was done by my guys on this particular
4 thing and a review of that in which I ask them, you know, various
5 questions about their logic frame, where they went. That was it.

6 ADC[MAJ HURLEY]: Thanks Mr. McCarl.

7 Ma'am, I don't have any more questions.

8 MJ: Redirect?

9 TC[MAJ FEIN]: Ma'am, before redirect, a few things. Looking at
10 the time, ma'am, and these two documents and then also I think we
11 found them and we will discuss with the defense these articles that
12 were referenced. The United States would ask that we possibly go
13 into a lunch recess before redirect. It accomplishes two things.
14 One, it saves time. Defense can meet with the next witness so we can
15 stay on time for the public session. We can review these documents.
16 And then, with the permission of the Court, discuss just these
17 documents with the witness for redirect and then we come back on the
18 record either before 1500 to finish this redirect or start the open
19 session, go into the closed session with Mr. Pearson and finish with
20 Mr. McCarl then so we can save time. Or, we can do it now. I mean,
21 we could--if not, ma'am, then we would ask for a recess now for us to
22 go over this and then continue.

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1 MJ: No, I like the idea of the consolidated recess. So, you
2 want to go back to the record at 1500. What works better? Well, if
3 we have the open session, Mr. McCarl is going to stay and then finish
4 the closed session with----

5 TC[MAJ FEIN]: Well, if I could briefly talk with defense?

6 MJ: Yes.

7 TC[MAJ FEIN]: Thank you, Your Honor.

8 [The parties briefly conferred.]

9 MJ: If we are going to need 20 minutes to do closed sessions,
10 one is preferable to two.

11 TC[MAJ FEIN]: Ma'am, the United States proposes, and I
12 apologize to Mr. McCarl for this proposal, it is his time also, is
13 that we move into recess right now ma'am for an extended lunch recess
14 then come back at 1500 for the open session because that is when the
15 public is coming and the media; we do the open session with Mr.
16 Pearson then we move into a single closed session with Mr. Pearson and
17 then the rest of Mr. McCarl.

18 MJ: All right, any objection to that?

19 ADC[MAJ HURLEY]: No, ma'am.

20 MJ: All right, Mr. McCarl, once again, the Court also apologizes
21 for this use of your time and the recess in between. I think it is a

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1 viable procedure. It is there anything we need to address before we
2 recess the Court?

3 ADC[MAJ HURLEY]: No, ma'am.

4 [The witness was temporarily excused, duly warned, and withdrew from
5 the courtroom.]

6 MJ: Court is in recess.

7 [The court-martial recessed at 1325, 7 August 2013.]

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