

K203SCH1

1 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

2 -----x
3 UNITED STATES OF AMERICA,

4 v.

S2 17 Cr. 548 (PAC)

5 JOSHUA ADAM SCHULTE,

6 Defendant.

Trial

7 -----x

New York, N.Y.
February 24, 2020
9:15 a.m.

9 Before:

10 HON. PAUL A. CROTTY,

District Judge
-and a jury-

11 APPEARANCES

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United States Attorney for the
Southern District of New York

13 BY: MATTHEW J. LAROCHE

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15 SABRINA P. SHROFF

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19 Also Present: Colleen Geier

Morgan Hurst, Paralegal Specialists

20 Achal Fernando-Peiris, Paralegal

21 John Lee, Litigation Support

22 Daniel Hartenstine

23 Matthew Mullery, CISOs, Department of Justice

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Small - Cross

1 (Trial resumed; jury present)

2 THE COURT: Mr. Small, I remind you you're still under
3 oath.

4 Ms. Shroff.

5 MS. SHROFF: Thank you, your Honor.

6 LEONARD SMALL,

7 CROSS-EXAMINATION

8 BY MS. SHROFF:

9 Q. Mr. Small, you testified on Thursday of last week that you
10 are an event-driven shop. Correct?

11 A. Yes.

12 Q. And by event-driven shop, you mean that if you are in the
13 mix, it's because somebody's gotten you involved, correct?

14 A. Not necessarily. It could be -- we could be investigating
15 an individual or someone who else has information.

16 I guess I'm confused by "someone has gotten me
17 involved." Could you clarify that?

18 Q. Sure. An event occurs that prompts your office to get
19 involved, correct?

20 A. Yes.

21 Q. Okay. That is in fact what you meant when you told
22 Mr. Denton you were an event-driven shop, correct?

23 A. Yes, yeah.

24 Q. And then you explained what you meant. You said you
25 investigate all events, correct?

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1 Do you have your transcript in front of you because
2 it's been a couple of days, so I am going to have them pull it
3 up for you on your screen if you need it.

4 You investigate all events to try and put any sort of
5 event into the right proper context, correct?

6 A. Right.

7 Q. And then write a report and hand that to the clearance
8 division?

9 A. Yes.

10 Q. Okay. And you called yourself, did you not, "the fact
11 finder."

12 A. Yes.

13 Q. You said you take the facts, put them down on paper,
14 correct?

15 A. Yes.

16 Q. You write them out, then you put them in what is called a
17 Memorandum for the Record, right?

18 A. Yes.

19 Q. MFR?

20 A. Hmm-hmm.

21 Q. Then you hand that MFR to someone?

22 A. Yes.

23 Q. Someone else is the decision-making authority, not you,
24 right?

25 A. Correct.

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1 Q. And you testified on direct for Mr. Denton here that you
2 had never seen an MFR as long as the one from Mr. Schulte,
3 correct?

4 A. Correct, to my knowledge.

5 Q. I'm only asking about your knowledge, sir.

6 A. Okay, all right.

7 Q. How long had you been in that job when you took
8 Mr. Schulte's MFR?

9 A. Can you repeat -- when I took his MFR?

10 Q. Wrote his MFR.

11 A. When I completed his MFR, I had been in the job two years.

12 Q. Well, you completed the MFR in May of 2018.

13 A. Hmm-hmm.

14 Q. Does that ring a bell for you?

15 A. There was an editing process from when I submitted the MFR.

16 Q. I'm only asking when you submitted the MFR. This is only
17 about you.

18 A. I guess submitted the MFR to whom? Because there is a QC
19 process it goes through as far as once I submit it, it is going
20 to be corrected for grammatical content and things like that.

21 Q. You haven't prepared for your testimony with me, correct?

22 A. No, I haven't prepared --

23 Q. Somebody asked you at the CIA if you would talk to
24 Mr. Schulte's defense lawyer and you declined, correct?

25 A. Can you repeat that?

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- 1 Q. Someone at the CIA reached out --
- 2 A. I'm sorry. I'm having trouble hearing you.
- 3 Q. Sure. Did anyone at the CIA ever tell you Mr. Schulte's
- 4 lawyers want to speak to you?
- 5 A. No.
- 6 Q. Never, okay. Did you speak to Mr. Denton about your
- 7 testimony?
- 8 A. Yeah, last month, yeah. In the leading up to the trial,
- 9 but --
- 10 Q. You talked to him, right?
- 11 A. Yes.
- 12 Q. Reviewed documents with him?
- 13 A. Trying to think. Yeah. I looked, I did look at some
- 14 documents. I can't remember if he was in the room or if this
- 15 was some stuff that I did. I'm not --
- 16 Q. So you reviewed some documents on your own, and the stuff
- 17 you did to prepare to meet with Mr. Denton?
- 18 A. Yes.
- 19 Q. Then you met with Mr. Denton?
- 20 A. Yes, yes.
- 21 Q. Reviewed with you all the exhibits he showed on Thursday?
- 22 A. Not all the exhibits. He showed me something I hadn't seen
- 23 before.
- 24 Q. We'll talk about what you had and not seen when we get to
- 25 them. But you went through a question-and-answer colloquy with

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- 1 Mr. Denton, correct, in preparing for testimony?
- 2 A. Yes.
- 3 Q. Okay. So, let me try again with my question to you.
- 4 A. Okay.
- 5 Q. The MFR that you submitted, in whatever version, you
- 6 submitted that in 2018, correct?
- 7 A. The final version was submitted in 2018.
- 8 Q. Okay. That was in May of 2018, correct?
- 9 A. Yes.
- 10 Q. Mr. Schulte had left the CIA in November of 2016?
- 11 A. Yes.
- 12 Q. And you testified on direct, did you not, that that was
- 13 because you were focused on more current things, meaning like
- 14 people who were still at the CIA, correct?
- 15 A. Yes.
- 16 Q. How many people are employed at the CIA; do you know, all
- 17 told?
- 18 A. I think that's classified. The full amount of people --
- 19 Q. Really? You think that how many employees there are at the
- 20 CIA is a classified fact?
- 21 A. Yes.
- 22 Q. Okay. How many people are employed in your group?
- 23 A. I'm unsure --
- 24 Q. Is that also classified?
- 25 A. That I'm unsure of.

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1 Q. You are not sure?

2 A. I am not sure about the classified about the amount of
3 resources we have at any given office.

4 Q. Okay. When you felt that your resources were limited in
5 terms of being divided between Mr. Schulte's MFR and other
6 things, did you go to your management and say, hey, you should
7 reassign this, or no?

8 A. It was a joint decision.

9 Q. I didn't ask you. I just said, yes or no, did you go to
10 someone?

11 A. Go to someone -- could you repeat the question, please?

12 Q. Sure. Did you go to someone and say, hey, you know, it's
13 2018 now, I'm still not done with this. Do you want to
14 reassign it?

15 A. I did not go to anyone else, given the length of the
16 investigation, how much work had been done. It would have been
17 counterproductive at that point.

18 Q. It would have been counterproductive at that point. Is
19 that your testimony?

20 A. Yeah, I had done so much, so much work on the case, and
21 given my familiarity with it.

22 Q. I see.

23 A. So it was always I was going to finish it.

24 Q. Right. But you didn't ask for your other new work to get
25 reassigned either, correct, so you could finish this?

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1 I'll withdraw that. It's okay.

2 A. New work did not get assigned to me.

3 THE COURT: She's withdrawing the question.

4 Q. Let's just focus on this investigation. You started with
5 your SIB investigation on April 8, correct?

6 A. That's not correct. I started with my investigation
7 shortly after Josh had submitted his MFR -- not -- his outside
8 activity request. So I began my investigation prior to my
9 first interaction with Mr. Schulte.

10 Q. When was that?

11 A. If I recall correctly, it was late March.

12 Q. Late March.

13 A. Late March, yeah.

14 Q. Your investigation was prompted by an outside activities
15 report, correct?

16 A. Yes, ma'am.

17 Q. Was it prompted by Mr. Schulte's filing of the outside
18 activities report or by someone else?

19 A. Me actually opening the investigation was prompted by the
20 filing of the outside activity report.

21 Q. Right before I move off from that, just for a second, on
22 the outside activity report. It is a form, correct?

23 A. An electronic form, yes.

24 Q. It is a form that is supposed to be filled out by anybody
25 who has outside contact; is that correct?

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1 A. Anyone who has outside contact with the media, among other
2 things, yes.

3 Q. Well, I mean, if a CIA employee goes to dinner at the
4 Pakistani consulate, they have to fill out an outside
5 activities report, correct?

6 A. That would be something that they would fill out, yes.

7 Q. It's just a dinner across the street in Washington, D.C.,
8 correct?

9 A. Could you say that again?

10 Q. Sure. It's just a dinner, correct, at a consulate,
11 correct? I'm asking you to assume.

12 A. Someone would have to fill that out given who you're going
13 to interact with, who you are going to run into at a foreign
14 embassy, yes.

15 Q. Well, the embassy is in D.C., right?

16 A. Yes.

17 Q. Okay. When you set up the first meeting that you had with
18 Mr. Schulte, you sent him an e-mail or did you call him?

19 A. I can't recall if I reached out to him via phone or if I
20 communicated with him via an instant message or if I sent him
21 an e-mail. But I can't remember which one I initially reached
22 out to him.

23 Q. You scheduled a meeting with him, correct?

24 A. Yes.

25 Q. Did you tell him before he came to the meeting what he

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- 1 should bring to the meeting?
- 2 A. Yeah, I did.
- 3 Q. What did you tell him to bring?
- 4 A. I told him to bring any court documents related to this
5 incident.
- 6 Q. You told him to bring court documents related to this
7 incident?
- 8 A. Yeah, anything that the court gives you or any court
9 documents, bring that, so we could go over them and talk about
10 that and other things, yeah.
- 11 Q. You didn't ask him to bring any other things, correct?
- 12 A. I asked him to bring the court documents.
- 13 Q. Right. You didn't ask him to bring his calendar, for
14 example, correct?
- 15 A. I can't recall asking him to bring other stuff.
- 16 Q. You are security, right? You're prepping for an interview,
17 right?
- 18 A. Hmm-hmm.
- 19 Q. Yes or no?
- 20 A. Yes.
- 21 Q. Okay. So, you don't recall sitting here today if you asked
22 him to bring his calendar, correct?
- 23 A. I can't recall asking him because sometimes --
- 24 Q. I didn't ask you why.
- 25 A. It could be --

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1 THE COURT: Mr. Small, listen to the question. Answer
2 the question, please. Don't elaborate.

3 Go ahead, Ms. Shroff.

4 Q. Do you recall asking him to bring a timeline?

5 A. Not that I can recall.

6 Q. Did you ask him to bring any notes?

7 A. Not that I can recall.

8 Q. Did you ask him to bring e-mails he had received?

9 A. Not that I can recall.

10 Q. Did you ask him to bring any e-mails he had sent?

11 A. Not that I can recall.

12 Q. Before you started your interview with Mr. Schulte, you had
13 been in touch with what is the Threat Management Unit, correct?

14 A. Yes, I had.

15 Q. You talked to them, correct?

16 A. Yes.

17 Q. They had talked to Mr. Schulte, correct?

18 A. Yes.

19 Q. They had talked to Amol, correct?

20 A. Yes.

21 Q. They had talked to Sean F., correct?

22 A. I'm not sure if they talked to Sean F., I can't recall.

23 Q. If you don't recall we'll refresh your recollection. You
24 don't recall if they talked to Sean F.?

25 A. I don't remember.

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1 Q. In TMU, who is Jacob?

2 A. I think Jacob is one of the -- if I recall correctly, he's
3 one of the officers that worked in the Threat Management Unit
4 at that time.

5 Q. You Same Time, IRC, whatever it is that they do, talk to
6 him, right, about this case?

7 A. Yeah, I know I reached out to them. I can't remember which
8 medium, if it was a phone call or a e-mail or a Same Time. But
9 I did reach out to him in preparation for my initial
10 face-to-face meeting with Mr. Schulte.

11 Q. Did you ask him, did you talk to Sean F.?

12 A. I can't recall if I talked to Sean F. specifically, but I
13 did talk to someone or either someone or multiple people within
14 TMU. I know I reached out to them and communicated --

15 Q. Sir, let's try this again. Sean F. is not in TMU, correct?

16 A. Okay. Sorry.

17 THE COURT: Ms. Shroff, could you raise your voice.

18 MS. SHROFF: Sure.

19 THE COURT: We're having trouble. Thank you. It's
20 not normally a problem we have.

21 MS. SHROFF: I know, that's why I'm surprised. But
22 okay.

23 Q. Sean F. is not in TMU?

24 A. Correct.

25 Q. You talked to people in TMU, correct?

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- 1 A. Yes.
- 2 Q. Then you asked TMU about their interviews with people in
3 OSB, correct?
- 4 A. With --
- 5 Q. OSB?
- 6 A. Yes, yes.
- 7 Q. Right?
- 8 A. Yeah.
- 9 Q. Okay. And you learned, did you not, because you wanted to
10 be properly prepared, that TMU had in fact spoken to
11 Mr. Schulte, correct?
- 12 A. Yes.
- 13 Q. Amol, correct?
- 14 A. Yes.
- 15 Q. Sean F., correct?
- 16 A. If I recall.
- 17 Q. Frank Stedman, correct?
- 18 A. Frank Stedman. If I recall correctly, I can't remember the
19 other individuals they reached out to.
- 20 Q. Okay. Let's focus on the interview again. When you
21 started the interview with Mr. Schulte, you talked -- by the
22 way, had you pulled Mr. Schulte's bio file?
- 23 A. Have I pulled his bio file?
- 24 Q. Right.
- 25 A. Yes. As part of the investigation, I did pull the

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1 resources available, yeah.

2 Q. So you pulled his bio file. You knew he was from Texas,
3 correct?

4 A. Yes.

5 Q. And when you started the interview, you started talking to
6 him, like, by saying, hey, I know you're from Texas, how you
7 doing, what about the Longhorns, that kind of conversation,
8 right? That's how you started the interview?

9 A. If I recall, I'm not -- I can't recall how I began the
10 interview.

11 Q. Okay.

12 A. If we talked about Longhorns or not.

13 Q. You don't remember talking to him about the UT Texas
14 football team?

15 A. I don't immediately recall that.

16 Q. Do you recall trying to establish some kind of rapport with
17 Mr. Schulte?

18 A. Yeah, yeah.

19 Q. That was your goal, right? To start things off slow, see
20 if you could get him to relax, correct?

21 A. Yes.

22 Q. Okay. And then you talked to him about -- by the way, did
23 you tell him, hey, Mr. Schulte, I'm recording you?

24 A. Yes.

25 Q. You did tell him?

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1 A. Yeah.

2 Q. You think it's on the recording that you told him this
3 interview is being recorded?

4 A. Yes.

5 Q. Okay. So he knew you were recording him?

6 A. Yes.

7 Q. Okay. And then you continued talking to him about being
8 from Texas, correct?

9 A. I can't recall conversations about Texas. I don't
10 immediately remember this.

11 Q. Do you recall asking him how he came to work at the CIA?

12 A. I can't recall.

13 Q. Do you recall him telling you that he started working at
14 the CIA in his third year of college?

15 A. I recall that fact, but I don't remember the initial
16 rapport building conversation of the investigation.

17 Q. Okay. Did he tell you he had come into the CIA as an
18 intern?

19 A. Not that I can recall.

20 MS. SHROFF: Your Honor, may I just approach?

21 THE COURT: Yes.

22 Ms. Shroff, what's before the witness now?

23 MS. SHROFF: I'm sorry?

24 THE COURT: What's before the witness? What did you
25 give him?

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1 MS. SHROFF: I just gave him the transcript of
2 Mr. Schulte's interview in case he needs to refresh his
3 recollection. He can take a look. At times we'll put up
4 specific pages, but I don't need all the pages put up.

5 THE COURT: Okay.

6 Q. Take a look at page 11 if you want.

7 Does that refresh your recollection that you asked him
8 about whether or not he had been an intern at the CIA?

9 A. I'm trying to find it, sorry.

10 THE COURT: Can you cite a page and a line,
11 Ms. Shroff?

12 MS. SHROFF: I did. 11.

13 A. I'm looking for it and trying to find the word "intern."

14 Q. Take a look at the top of 12.

15 A. Okay.

16 Q. Third paragraph on 11 and then it continues to the top of
17 12. Came aboard as an intern.

18 A. You say at the bottom of 11? I'm sorry.

19 Q. That's okay. Here. Take a look.

20 A. Okay.

21 Q. He told you he came on board as an intern at the CIA,
22 correct?

23 A. Yes.

24 Q. He tells you he was just supposed to be there for a couple
25 of months, but stayed longer because he loved it so much?

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1 A. Yes.

2 Q. He told you he loved it so much, in fact, that he took a
3 year off from school and stayed at the CIA and graduated in
4 four years instead of three, correct?

5 A. I can't immediately recall that conversation, but if that
6 says that, you know.

7 Q. Good. Okay. He told you he could have gone to IBM or
8 Microsoft, but instead chose to work for the country, correct?

9 A. If it says that in here. I can't immediately recall the
10 gist of these rapport building conversations over the course of
11 a long, long interview.

12 Q. Okay. And then you tried to focus Mr. Schulte on where he
13 was in the office at that time, that is 2016, correct? Just
14 generally, if you recall?

15 A. If that's --

16 Q. You focus --

17 A. Yeah, I can't, I'm having difficulty immediately recalling
18 nuances of certain conversations that I had a while ago.

19 Q. You recall asking him about his work at OSB though, right?

20 A. Yes.

21 Q. And you recall saying to him that you noticed from his bio
22 file that he had been in OSB for a while, correct?

23 A. Yes.

24 Q. And that he explained to you why he had stayed in OSB,
25 correct?

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1 A. I can't immediately recall, but I know I would have asked
2 that.

3 Q. You would have asked that, right?

4 A. Yeah.

5 Q. Do you recall him telling you something about wanting to
6 build technical expertise and not losing it?

7 A. I can't recall that --

8 Q. Do you recall?

9 A. -- very specifically.

10 Q. Do you recall him saying that coders tend to be like that,
11 and management was respectful of that? Do you recall him
12 saying that?

13 A. No.

14 Q. Do you recall him saying to you that most people in the
15 technical side prefer to stay in the technical side and
16 management respects that decision or tries to understand that?

17 A. That seems to ring a bell.

18 Q. That seems to ring a bell, right?

19 A. Yeah.

20 Q. By the way, at some point, you personally interviewed
21 Mr. Amol, right?

22 A. Yes, I did.

23 Q. When you interviewed Amol, did he tell you that he did not
24 feel that way about being a developer?

25 A. I can't recall.

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1 Q. You don't recall?

2 A. Uh-uh.

3 Q. Do you recall Mr. Amol telling you that he was ready to
4 leave OSB at that time?

5 A. Yeah, I do recall him, hmm-hmm.

6 Q. Do you recall him telling you that coding was hard, and he
7 wanted a spot in leadership?

8 A. Not that specifically, no.

9 Q. Let me show you 3512-68 and see if that refreshes your
10 recollection.

11 While I get to that, do you recall speaking to
12 Mr. Amol and taking notes?

13 A. Yes.

14 MS. SHROFF: May I just have a minute, please? Can I
15 just have a sidebar for a minute?

16 (Continued on next page)

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1 (At the sidebar)

2 THE COURT: Yes.

3 MS. SHROFF: I think I've said the man's name twice.

4 THE COURT: I can't hear you.

5 MS. SHROFF: I've said that man's last name twice by
6 mistake and I'm sorry. It's either my mind is not working
7 correctly or I'm off or whatever, but I wanted to point that
8 out. I noticed that I cut myself off the last time, but I keep
9 going back to his last name.

10 THE COURT: Don't say that.

11 MS. SHROFF: I know. I have said it and now I'm
12 getting nervous that I keep saying it.

13 THE COURT: Try to remember Amol. Do your best. Did
14 you call a sidebar for that?

15 MS. SHROFF: Yes, I did. I was feeling a little
16 nervous about it.

17 (Continued on next page)

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1 (In open court)

2 BY MS. SHROFF:

3 Q. You recall interviewing Amol, right?

4 A. Yes.

5 Q. Generally speaking, you recall him telling you that he was
6 ready to move on from OSB, correct?

7 A. Because of the incident, because of the accusations, yes.

8 Q. Really? You think it was because of the incident, not
9 before?

10 A. That was one of the things that had frustrated him.

11 Q. I didn't ask you if it was one of the things that
12 frustrated him. I am asking if it is your testimony now that
13 the reason Amol wanted to move was this incident and not
14 because he was tired of being a developer.

15 A. I can't --

16 Q. Is that your testimony?

17 A. I can't immediately recall him saying he was tired of being
18 a developer.

19 Q. What does that mean when you say you don't immediately
20 recall?

21 A. I don't immediately recall the specific language of the
22 specific frustrations he was having at the time with the job in
23 general. Whether it's frustrations with the process or what
24 have you. I know he was, he -- he didn't like that, you know,
25 no one likes to come into Special Investigations Branch and

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1 have to talk about things with an investigator.

2 So, but, yeah, that's -- that was the gist of what I
3 recall now.

4 Q. When you spoke to Amol, did you not, sir, know that he was
5 ready to move on because he did not enjoy coding?

6 A. I can't recall.

7 Q. You can't recall?

8 A. I can't recall.

9 Q. Okay. And when you interviewed Amol, you recorded his
10 interview, correct?

11 A. Yes.

12 Q. And you talked to other people who had spoken with Amol,
13 correct?

14 A. Talked to other people who had spoken with Amol. In what
15 context?

16 Q. With TMU. TMU had spoken to Amol?

17 A. Yes, I had spoken to TMU.

18 Q. TMU told you what Amol had told TMU, correct?

19 A. Yes.

20 Q. Who was Amol's boss at that time, do you know?

21 A. His boss was also Sean F.

22 Q. Did you talk to Sean F. about Amol?

23 A. No, I did not.

24 Q. Did you talk to Sean F. about Mr. Schulte?

25 A. No, I did not.

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1 Q. You never spoke to their immediate boss about the two
2 people that you were investigating?

3 It's okay. I'll withdraw that.

4 Let's just go back to your interview of Mr. Schulte,
5 okay? You asked Mr. Schulte what OSB stood for, correct?

6 A. I'm sure I did.

7 Q. Right. Did you not know what OSB stood for or were you
8 just pretending you didn't know what OSB stood for?

9 A. I can't recall at that time if I temporarily forgotten or
10 needed a reminder or wanted to make sure. That I can't recall.

11 Q. You can't recall, okay. Then you told him to tell you what
12 a typical day was for Mr. Schulte, right? You told him, hey,
13 tell me what your typical day looks like, correct?

14 A. Hmm-hmm.

15 Q. Do you recall that?

16 A. I seem to recall that, yeah.

17 Q. He told you he's not a morning person, correct?

18 A. That I do recall.

19 Q. He told you, unlike the others, he schleps in about 9, 9:30
20 or even 9:30 to 10:30?

21 A. I seem to recall him mentioning he works a little bit later
22 hours.

23 Q. He told you when he first gets in, he logs into his ice
24 station, correct?

25 A. I can't recall that specifically, the nuances of that at

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1 that point.

2 Q. Okay. Do you recall him telling you that his next step is
3 to leave and go get water after he logs in?

4 A. To leave and go get?

5 Q. Water.

6 A. I don't recall that specific breakdown of the day.

7 Q. Let me give you this document so you can focus on page 22.
8 That might help you out, okay?

9 A. Okay.

10 Q. He tells you he goes to get water, correct?

11 A. Yeah.

12 Q. Logs on to DevLAN, correct?

13 A. Bear with me one second.

14 Q. Sure.

15 A. Thank you.

16 Can you repeat your question?

17 Q. Sure. He told you he logs on to DevLAN, correct?

18 A. Yes.

19 Q. Then after he logs on to DevLAN, you asked him does DevLAN
20 have an e-mail system.

21 A. Correct.

22 Q. Do you recall questions about DevLAN having an e-mail
23 system?

24 A. I can't immediately recall, but with the --

25 Q. You recall testifying on Thursday, did you not, that your

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1 investigation turned into a computer intensive investigation
2 rather than anything else, correct?

3 A. I don't know if I characterized it that way. But I did, it
4 did have, you know, computer -- elements to it. But the focus
5 of my investigation, the initial focus of my investigation was
6 finding the facts regarding a death threat.

7 Q. I thought you said the initial investigation was to make
8 sure you knew what documents he was taking to court, not the
9 death threat.

10 A. My initial interactions with Josh were to, you know, I
11 mean, the situation of the death threat, you know, came to us
12 via the outside activity report when Mr. Schulte submitted,
13 hey, I'm filing a protective order, you know, on another
14 co-worker. And my investigation, of course, wanted to make
15 sure all -- the context of that death threat. What happened,
16 what it was. So it's the whole picture.

17 Q. But it wasn't the whole picture, right? TMU had the death
18 threat. Threat Management Unit had the death threat, correct?

19 A. TMU, they looked at the initial reporting of the death
20 threat.

21 Q. You're security, correct?

22 A. Yes.

23 Q. You do security investigations, correct?

24 A. Yes.

25 Q. You are not involved in if there was a death threat. You

K203SCH1

Small - Cross

1 would not be the people to be called, correct?

2 A. For immediate life safety issues, it's with TMU. TMU
3 typically handles the immediate life safety issues.

4 Q. Right. In fact, you testified on direct and again today
5 that your involvement only started because you got an e-mail
6 about an outside activity report, correct?

7 A. That's correct.

8 Q. So if the fight had not resulted in an outside activity
9 report, you wouldn't be involved at all, correct?

10 A. I'm sorry. If the what had resulted --

11 Q. If a fight or an argument did not result in an outside
12 activity report, your unit would not be involved, correct?

13 A. That I can't speculate.

14 Q. You can't -- then don't speculate.

15 A. That I can't speculate because we also got an e-mail from
16 the --

17 Q. Sir. Sir. Do you know what "don't speculate" means?

18 A. Yes.

19 Q. Okay. Now take a look at your transcript, would you.

20 Bottom of 2023.

21 MS. SHROFF: Can you pull that up for him, somebody.

22 A. 23?

23 Q. No, no. I'm talking about your trial testimony from
24 Thursday where you said, "At this point it was more of a
25 computer intensive investigation."

K203SCH1

Small - Cross

- 1 Do you remember saying that on your direct testimony?
- 2 A. I can't immediately recall that, but if the transcript says
3 that, then, yeah.
- 4 Q. Okay. Because it was a computer intensive investigation,
5 you asked him about DevLAN, right?
- 6 A. Yes.
- 7 Q. And you asked him if DevLAN had an e-mail system, correct?
- 8 A. I can't recall specifically asking that in that form.
- 9 Q. You can take a look at that document I gave you on page 22.
10 See if that refreshes your recollection.
- 11 A. Can you repeat the page number, please?
- 12 Q. Page 22, it's the fourth paragraph from the bottom.
- 13 A. Okay. I see it.
- 14 Q. I'm sorry?
- 15 A. Yeah, I see where --
- 16 Q. Okay. Now you recall asking him questions about DevLAN,
17 correct?
- 18 A. Yes.
- 19 Q. E-mail systems on DevLAN, correct?
- 20 A. Yes.
- 21 Q. And he tells you, does he not, that there is no e-mail on
22 DevLAN, correct? He tells you there is an IRC server, correct?
- 23 A. Yes.
- 24 Q. And he explains to you how an IRC server works, correct?
- 25 A. It looks like it, yeah.

K203SCH1

Small - Cross

1 Q. And then he tells you one other way that coders communicate
2 is through Jira, correct?

3 A. Sorry, I just -- bear with me one second.

4 Can you repeat that?

5 Q. Then he tells you, does he not, that another way that they
6 communicate, coders communicate is on Jira, correct? J-I-R-A.
7 Take a look at 23 in the middle of the page.

8 A. Yeah, I see that.

9 Q. Right. And he tells you, does he not, how Jira works,
10 correct?

11 A. Yeah, he appears to explain -- yes.

12 Q. Right. And he explains to you that Jira is an issue
13 tracking system, correct?

14 Do you know what Jira does?

15 A. I can't immediately recall the nuances of what Jira does.

16 Q. Put aside the nuances. On a very general level, do you
17 know what Jira does?

18 A. I can't recall.

19 Q. So no.

20 A. I can't recall.

21 Q. Okay. But you know, but you just can't recall.

22 A. I can't recall what Jira is.

23 Q. So let's see if this refreshes your recollection. He
24 explains to you that Jira is an issue tracking system, correct?

25 A. Yes.

K203SCH1

Small - Cross

1 Q. He explains to you that it issue tracks between the test
2 mode and the deployment of a tool, correct?

3 A. I can't find where it specifically has that as succinctly
4 as that. I may have asked --

5 Q. Right.

6 A. Repeat your question?

7 Q. Sure. He explains to you that Jira is the communication
8 tracking system between the test mode and the deployment of a
9 tool, correct?

10 A. I see where it says specifically the test mode, but the way
11 you said it, I don't see where it says that specifically in
12 here.

13 Q. Okay. Well, do you recall that he tells you that there
14 are -- when the customer wants to iron out the bugs, they tell
15 them about the problems on Jira? Does he explain that to you
16 there?

17 A. Again, I can't recall that.

18 Q. I know you can't recall.

19 A. These technical conversations.

20 Q. I understand that. That's why I marked it with an arrow
21 for you. Right there. See how he explains to you how the bugs
22 work and how they communicate about bugs on Jira? Then he
23 explains to you that all that issue tracking is for us and for
24 the customer? You see that, he explains to you how it works?

25 A. I'm trying to find out where he mentions customer in here.

K203SCH1

Small - Cross

1 Q. That's okay. It's the paragraph right above the word
2 "okay." But that's all right. You can put that aside.

3 And then, he tells you, does he not, that his job is a
4 lot of fun, correct?

5 A. Yes.

6 Q. Okay. After this point of the conversation, you then start
7 talking to him about Amol, correct?

8 A. Yes.

9 Q. And then you ask him, right, very generally, when did you
10 meet Amol, right? You start off the conversation by asking him
11 when he meets Amol, right? Put that the document aside.

12 A. Okay.

13 Q. Do you recall that at all?

14 A. Yeah, I'm sure that I asked him about what -- how he first
15 met Amol.

16 Q. Does he tell you, do you recall -- and you can take a look
17 if you want, page 25 -- that time all has fairly run together
18 now, and he can't remember when he met him.

19 A. Yeah, I see that.

20 Q. Okay. And you recall he says that to you, correct?

21 A. Yeah.

22 Q. Okay. And then you ask him about dates, correct? Later on
23 in the interview when you're talking to him about dates, do you
24 recall that you ask him what date he files what document,
25 correct?

K203SCH1

Small - Cross

1 A. Yes.

2 Q. And he tells you, does he not, that he's bad with dates?

3 MS. SHROFF: You can put up page 61 now.

4 Q. Do you recall Mr. Schulte --

5 MS. SHROFF: You can take it down.

6 Q. -- telling you that he's bad with dates?

7 A. Yes.

8 Q. And then the next thing you talked to Mr. Schulte about
9 during this interview is his boss, Sean F., correct?

10 A. I can't recall.

11 Q. Well, you ask him about his boss's management style; do you
12 recall that?

13 A. I recall at some point asking that, yes.

14 Q. He tells you, does he not, that Sean F. is really pretty
15 hands off, correct?

16 A. Yes.

17 Q. And then he tells you that Sean F. is leaving OSB, correct?

18 A. Yes.

19 Q. Then he describes Sean F. as being pretty checked out,
20 correct?

21 A. Yes.

22 Q. And you have a colleague named Josh, right, Josh L.?

23 A. Josh L. I can't recall a Josh L. at the --

24 Q. Do you have a colleague named Josh L. in TMU maybe?

25 A. Okay. I remember there being another Josh in TMU, yes.

K203SCH1

Small - Cross

1 Q. And when you spoke to Josh L., you asked him, did you not,
2 about Josh L.'s interview with Sean F., correct?

3 A. I did ask TMU about all the interviews they did with this.

4 Q. Do you recall if Josh L. agreed that Sean F. was laid back
5 but pretty checked out?

6 A. I can't recall, I can't recall that being discussed.

7 Q. Do you recall asking Josh L. about his interview with
8 Mr. Sean F.; do you recall that?

9 A. I recall me asking TMU about their interviews with
10 everybody to include Josh.

11 Q. And TMU told you that they didn't record their interview of
12 Sean F., correct?

13 A. I can't recall.

14 Q. Let me show you 3525-07.

15 MS. SHROFF: Can you just pull it up.

16 Q. Do you recall from your Same Time chats, or whatever
17 they're called, that you learned that Sean F.'s interview was
18 not recorded?

19 A. Trying to find it in what you just gave me, hold on.

20 Do you have a specific page I should be looking at to
21 expedite this?

22 Q. I'll point you to the paragraph in the -- you can take a
23 look at the last page, page eight. You see that? It's --

24 A. Yes, I see it.

25 Q. Am I correct that they did not record Sean F.'s interview?

K203SCH1

Small - Cross

1 A. That is correct.

2 Q. Is the reason that they didn't record it, according to your
3 interaction with Josh L., is because Sean F. did not know the
4 specifics on anything, correct? That he was mostly for
5 background?

6 A. You put two -- could you repeat your full question?

7 Q. Let me try it again.

8 A. Yeah.

9 Q. Am I correct that the interview with Sean F. is not
10 recorded?

11 A. That is correct.

12 Q. And I'm correct it's because the person doing the interview
13 did it mostly for background?

14 MR. DENTON: Objection to hearsay, your Honor.

15 THE COURT: Sustained.

16 Q. Did you prepare for this interview with Josh?

17 A. Yes.

18 Q. Did you review any video recording of Sean F.'s interview
19 with TMU?

20 A. Of Sean F.'s -- not in the preparation for this, no.

21 Q. Preparation for your interview of Mr. Schulte in April of
22 2016.

23 A. Yes.

24 Q. Did you review a recording?

25 A. Oh. With Sean F., no, uh-uh, there was no recording.

K203SCH1

Small - Cross

1 Q. There wasn't a recording?

2 A. There was no recording.

3 Q. Was there no recording because you were told that Sean F.
4 was interviewed for background only?

5 MR. DENTON: Objection.

6 THE COURT: Sustained.

7 Q. Did you ask TMU why they did not record Mr. Sean F.'s
8 interview?

9 MR. DENTON: Same objection, your Honor.

10 THE COURT: Sustained.

11 Q. Did you learn at some point why Sean F.'s interview was not
12 recorded?

13 MR. DENTON: Same objection.

14 THE COURT: Sustained.

15 Q. In your interview with Mr. Sean F., did Mr. Sean F. have
16 any specifics at all in his mind?

17 A. I did not interview Sean F.

18 Q. You did not interview Sean F. at all?

19 A. No.

20 Q. Okay. Let's go back to what started your interview of
21 Mr. Schulte, okay. That's the outside activities report he
22 filed, correct?

23 A. That was one of the factors that started the investigation.

24 Q. When you spoke to Mr. Schulte, did you ask him to bring
25 with him court documents?

K203SCH1

Small - Cross

1 A. Yes.

2 Q. Did he bring them with him?

3 A. I can't recall if he brought them or if he submitted them
4 to me beforehand, prior to the interview. That I can't
5 immediately recall.

6 Q. Did you yourself try and get the court documents on your
7 own?

8 A. Not that I can recall.

9 Q. Did you send anyone to the county clerk's office to go pull
10 the documents?

11 A. Not that I can recall.

12 Q. Did you ever read the protective order?

13 A. I did read a copy of the protective order at some point.

14 Q. That's because he provided it to you, correct?

15 A. It could have been him or it could have been Amol --

16 Q. But you didn't go get it, correct?

17 A. I did not physically drive to the courthouse to get it, no.

18 Q. Now, when you were interviewing Mr. Schulte, you testified
19 that you had determined there was no immediate threat, correct,
20 to his safety?

21 A. Did I determine that? TMU had determined that there was no
22 immediate threat to his safety.

23 Q. Right. And you then, when you were interviewing him, you
24 recall that you asked him about the document that you are
25 supposed to fill out online, the outside activity report is

K203SCH1

Small - Cross

1 where you were focused, right?

2 A. Yeah, I did ask him about that, yes. The outside activity
3 report.

4 Q. Let's pull up that exhibit, okay. The outside activity
5 report. You reviewed that with Mr. Denton, correct, that's
6 Government Exhibit 506. Let's take a look at that. That's the
7 document you were focused on, correct?

8 A. Yes.

9 Q. Because you are SIB, correct?

10 A. That's one of the documents we focused on, yes.

11 Q. Let's take a look at the language that Mr. Denton asked you
12 to focus on and that's the section where it says, "pursuant to
13 agency regulation," you see that?

14 A. Could we zoom in a little bit more?

15 Q. It says, "pursuant to agency regulation."

16 A. Yeah.

17 THE COURT: Still awfully Small, Ms. Shroff.

18 MS. SHROFF: Is that better?

19 THE COURT: That's better.

20 A. Yes, I see it.

21 Q. Now, you focused on your -- during your interview on this
22 section, you said, right, of the document. Is that an accurate
23 statement by me or not?

24 A. That during the interview with Josh I focused on this
25 specific part -- yeah.

K203SCH1

Small - Cross

- 1 Q. Okay.
- 2 A. I did, that was one of the focuses.
- 3 Q. Right. And can you take a look at the top, the part of
4 where he provides you information that relates to this, right,
5 so let's go up a little bit. And see where he tells you about
6 the start date, correct? Right there.
- 7 A. Hmm-hmm.
- 8 Q. Right? He notes the start date as March 28, correct?
- 9 A. Yes.
- 10 Q. And then end date is March 31, correct?
- 11 A. Yes.
- 12 Q. And his reason is he reports his security incident, right?
- 13 A. Yes.
- 14 Q. Then he tells you he's pursuing legal action, correct?
- 15 A. Yes.
- 16 Q. He tells you why, correct?
- 17 A. Yes.
- 18 Q. And he tells you where, correct?
- 19 A. Yes.
- 20 Q. Gives you the name of a lawyer?
- 21 A. Yes.
- 22 Q. Gives you the name of a firm?
- 23 A. Yes.
- 24 Q. A phone number?
- 25 A. Yes.

K203SCH1

Small - Cross

1 Q. And this is the information he provides to you, correct?

2 A. Yeah.

3 Q. And you're SIB, right?

4 A. Yes.

5 Q. And you verify if that information is correct, correct?

6 A. I did not verify that that information is correct or not.

7 Q. Didn't you want to know which lawyer he was talking to?

8 A. I did. I did ask him -- he did tell me which law group he
9 was in. I want to clarify these outside activity reports.

10 They are submitted to clearance division. Clearance division
11 looks at it amongst other offices within the office of
12 security.

13 Q. That's nice to know. But when you were testifying on
14 Thursday, you testified about this document, correct?

15 A. Yeah, I testified about it.

16 Q. When Mr. Denton asked you the questions, you didn't talk
17 about the clearance divisions.

18 A. Not that I recall.

19 Q. Let's focus on the document now. He provided this
20 information to you, correct?

21 A. Yes.

22 Q. Did you verify that in fact that information was accurate?

23 A. I did not verify if the -- which information are you
24 specifically referring to in the outside activity report that I
25 verified or did not verify?

K2oWsch2

Small - Cross

- 1 BY MS. SHROFF:
- 2 Q. Let's just start with the lawyer's name. Did you verify
- 3 that?
- 4 A. I did not verify the lawyer's name.
- 5 Q. How about the lawyer's firm name; did you verify that?
- 6 A. When you say verify --
- 7 Q. Just yes or no.
- 8 A. Ma'am -- excuse me.
- 9 Q. Yeah.
- 10 A. When you say verify, how do you mean to verify?
- 11 Q. Let's see.
- 12 A. Do you mean --
- 13 Q. Is there a phone number that he gives you for the lawyer?
- 14 A. There is a phone number there.
- 15 Q. Right. Did you pick up the phone and say, Hey, this is the
- 16 Employment Law Group?
- 17 A. No, I did not.
- 18 Q. OK.
- 19 A. And I would not.
- 20 Q. You would not?
- 21 A. Uh-huh.
- 22 Q. You would not want to verify if Mr. Schulte is giving you
- 23 the correct name and phone number for a lawyer?
- 24 A. That's outside of my responsibilities.
- 25 Q. It is outside of your responsibilities; is that what your

K2oWsch2

Small - Cross

1 testimony is?

2 A. That's -- the focus of my investigation was not on the
3 verification of that.

4 Q. The focus of your investigation was to verify --

5 A. Not individual, like, phone numbers and stuff. I was not
6 going to call the employee -- I was not going to call the
7 Employment Law Group.

8 Q. But you wanted to make sure about Mr. Schulte's veracity,
9 correct?

10 A. That's --

11 Q. That's the first thing about security; you want to see if
12 he's telling the truth, correct?

13 A. Truth is very important to security.

14 Q. Exactly. The easiest way to find out if he's telling the
15 truth is to call and see if the number he's giving you for a
16 lawyer is, in fact, the law firm's office, correct? Simple
17 call, correct? Yes or no.

18 A. I mean -- uh, at this point I had no -- I do not make it a
19 habit of calling up someone's law firm when they are going
20 through their own separate legal process.

21 Q. I asked --

22 A. I let them do that.

23 Q. That's not what I asked you.

24 A. Yeah.

25 Q. I asked you if this was not one of the simplest ways to

K2oWsch2

Small - Cross

1 verify Mr. Schulte's veracity. You know what veracity means,
2 right?

3 A. I don't -- I mean, I --

4 Q. Truthfulness.

5 A. OK.

6 Q. Easiest way to verify if he's telling you the truth, if
7 he's telling you, This man's my lawyer, easiest way to verify
8 that is see, Hey, is there a lawyer at the other end of this
9 number, correct?

10 A. I think the easiest way for me would be, you know, I want
11 to meet with Josh directly and talk to him.

12 Q. Let's go with that.

13 A. Not reach out to the law firms themselves. That's not
14 typically what I do.

15 Q. OK. So typically, you don't take the easiest way to find
16 out if somebody's being truthful, correct?

17 MR. DENTON: Objection.

18 THE COURT: Sustained.

19 Q. You want to rely on Josh, correct?

20 A. He's --

21 Q. Yes? That's just yes or no.

22 A. He's one of the factors that I would rely on.

23 Q. I didn't ask you -- sir, let's just be clear.

24 A. OK.

25 Q. OK. He's one of the factors you would rely on for sure,

K2oWsch2

Small - Cross

1 correct? Right?

2 A. Josh, yes.

3 Q. Right. Not the only factor, right?

4 A. Correct.

5 Q. The other factors would be objective facts that he gives
6 you that you can verify, correct?

7 A. Yeah.

8 Q. This is an objective fact that he gave you, correct?

9 A. Yeah.

10 Q. You did not verify, correct?

11 A. I did not --

12 Q. You did not verify?

13 A. I did not make contact with the employee law group.

14 Q. Sir, you did not verify -- do you have trouble saying yes
15 or no? Did you verify?

16 THE COURT: I think it's clear he didn't verify.

17 MS. SHROFF: OK. Thank you, your Honor.

18 THE WITNESS: Yeah.

19 THE COURT: Go on to something else.

20 MS. SHROFF: No, no. Let's stay with 506, shall we?
21 Let's go down to the bottom of that page.

22 Q. Do you see that portion?

23 MS. SHROFF: There you go.

24 Q. Do you see this comment? Is that your comment, sir?

25 A. Which comment are you referring to?

K2oWsch2

Small - Cross

1 Q. "Why do you anticipate a media presence"; is that your
2 comment?

3 A. That is not my comment.

4 Q. OK. Do you ask Mr. Schulte during your interview about him
5 anticipating a media presence?

6 A. I did ask him about that.

7 Q. You asked him about that several times, correct?

8 A. Uh-huh -- if I recall correctly, yeah.

9 Q. Right. And you were focused on whether or not him and his
10 lawyer were going to call the media, correct?

11 A. Yes.

12 Q. Right. Why?

13 A. My focus is just the protection of classified information.

14 Q. Right.

15 A. We would not --

16 Q. You can protect classified information, can you not,
17 without questioning him about media? Correct?

18 A. Protect -- could you rephrase your question? I'm a
19 little --

20 Q. Sure. Sitting here today, do you recall how many times you
21 asked him if he was going to go to the media?

22 A. I can't immediately recall the number of times I asked him
23 that.

24 Q. OK. Do you recall asking him if his lawyer was planning to
25 use the media?

K2oWsch2

Small - Cross

1 A. Uh, yes.

2 Q. And you would assume that any use of media for you --

3 MS. SHROFF: You know what? I'll withdraw that.

4 Q. You asked him about the use of media, you testified,
5 because you were worried about classified information; is that
6 your testimony?

7 A. Yes.

8 Q. Did you ever tell him, Use media, but do not talk about
9 classified information?

10 A. I did not tell him to use or not use media.

11 Q. Right. Did you say to him, If you use the media, don't use
12 classified information?

13 A. I said if he was using the media, he had to, you know --
14 you've got to follow the guidance that's given to you from the
15 outside activity form by all the parties that weigh in on that
16 form as it gets rounded.

17 Q. Right. So then you direct him to another form that he has
18 to fill out for the media, correct? In fact, it tells at the
19 bottom the correct form to fill out if you're going to contact
20 media, correct?

21 It's a separate form, is it not, sir?

22 A. It's -- on this form, they -- if they anticipate contact
23 with the media, it's a box they check, like a radio button they
24 push.

25 Q. Right. And you asked him several times about media

K2oWsch2

Small - Cross

1 contact, correct?

2 A. Yes.

3 Q. And he had not pushed that button about media contact,
4 correct?

5 A. I think if we zoom out, he had indicated that there --
6 media contact was going to be involved --

7 Q. Yes or no.

8 A. -- outside activity form.

9 Q. OK.

10 A. It's either this one or --

11 Q. Sir, 506, show me where he's pointed that button.

12 A. I'm referring to the second outside activity report he --

13 Q. I'm only on 506, sir.

14 A. So -- excuse me. There were two forms that he submitted.

15 Q. We'll get to the second form.

16 A. Yeah. I'm sorry.

17 On this form he did not indicate any media contact.

18 Q. Right. And when you talked to him about media contact --
19 right?

20 A. I later did talk to him about media contact.

21 Q. Correct. And he told you, did he not, over and over again,
22 that that was a decision for his lawyer to make? Correct?

23 A. I can't recall the nuances between the, like --

24 Q. You keep using this word "nuance." What's nuanced about
25 him telling you that that was his lawyer's decision?

K2oWsch2

Small - Cross

1 A. I can't remember if he said his lawyer said it's odd or if
2 it was a suggestion or if it was something Schulte said that,
3 maybe, his lawyer agreed with. That's kind of the nuances that
4 I'm trying to remember. I know that that's when I use the word
5 "nuances." It's not -- that's my rationale.

6 Q. OK. Well, let's try that.

7 A. OK.

8 Q. He told you, did he not -- Mr. Schulte told you, did he
9 not, that he didn't know if he was going to use the media?
10 Correct?

11 A. He said that he didn't want to use the media.

12 Q. OK. Well, let's start with that.

13 A. OK.

14 Q. He told you he didn't want to use the media, correct?

15 A. Yeah, at one point during the interview, he did.

16 Q. Correct. And he told you that what he wanted was to try
17 and resolve this matter, correct?

18 A. Yes.

19 Q. Now, when you have 506, when you are reviewing this
20 document with Mr. Schulte --

21 A. OK. And you mean the initial outside activity report, not
22 the second one with media contact?

23 Q. Do you see the document in front of you?

24 A. OK.

25 Q. That's the one.

K2oWsch2

Small - Cross

- 1 A. All right. First one.
- 2 Q. When you reviewed this document with Mr. Schulte, he's
3 already gone to court, correct?
- 4 A. When I reviewed it with him, you mean when I spoke to him
5 during the interview one-on-one? Or do you mean when I
6 initially reached out to him?
- 7 Q. When you are interviewing Mr. Schulte --
- 8 A. Interviewed him, OK. Yeah, he had already been to court
9 that --
- 10 Q. Right.
- 11 A. He'd already been to court.
- 12 Q. Right.
- 13 A. At that time.
- 14 Q. Right.
- 15 A. The first time.
- 16 Q. Right. And you know he had been to court, right?
- 17 A. Yes.
- 18 Q. And you knew which court he had gone to, correct?
- 19 A. Yes.
- 20 Q. And you knew whom he had gone to court about, correct?
- 21 A. Yes.
- 22 Q. You knew which county he had gone to court in, correct?
- 23 A. Yes.
- 24 Q. And you had not yet pulled any documents from the court
25 yourself, correct?

K2oWsch2

Small - Cross

1 A. Me personally, no.

2 Q. OK.

3 A. Directly from the courthouse.

4 Q. Nobody from SIB had pulled any court documents, correct?

5 A. When you say -- can you clarify when you say pulled
6 documents, because there's ways we can get documents other
7 than -- there's online. There's driving to the courthouse.
8 There's many different ways.

9 Q. You know what?

10 A. Or are you asking me if I reviewed court documents prior to
11 meeting with him?

12 Q. Let me know when you're finished. Are you finished?

13 A. I'm finished.

14 Q. OK. Any way: email; walking over; sending a cab. Any way.
15 Did anyone from SIB ever come back to you and say, Here are the
16 state court documents involving Amol and Josh?

17 No, right?

18 MR. DENTON: Your Honor, can he answer the question?

19 THE COURT: Well --

20 MR. DENTON: Before Ms. Shroff does.

21 THE COURT: Yes, he can answer the question.

22 A. I -- I can't recall how I reviewed those documents, if they
23 were the ones that were given to me by -- you know, given to me
24 by Josh, given to me by Amol. I can't recall if they were ones
25 that I pulled up online. I can't recall how I reviewed the

K2oWsch2

Small - Cross

1 court-related documents.

2 Q. You think you reviewed the Loudoun state court local jail
3 or local court documents online?

4 A. I --

5 Q. That's your testimony?

6 A. I can't, I can't recall --

7 Q. OK.

8 A. -- which one. And you know, or if -- yeah, I can't recall
9 specifically how I reviewed the court, the court-related
10 documents that I did end up reviewing.

11 Q. OK. Now, let's just stay with this document. OK? Do you
12 see --

13 MS. SHROFF: Let's go back to pursuant to.

14 Q. And there is an agency regulation, 10-16, correct?

15 A. Yes.

16 Q. And this regulation distinguishes documents that a person
17 is prohibited from removing from documents that are considered
18 classified, correct?

19 A. Yes.

20 Q. OK. So the first line reads, "The employee may not
21 disclose classified information, including agency affiliation,
22 if under cover," correct?

23 MR. DENTON: Your Honor, I'm just going to object to
24 Ms. Shroff reading from a document not in evidence.

25 MS. SHROFF: I thought you put it in evidence.

K2oWsch2

Small - Cross

1 THE COURT: I thought it was in evidence.

2 MS. SHROFF: I think this is yours. Am I wrong?

3 Well, look down. I don't know. I thought it was in
4 evidence as a government exhibit.

5 THE COURT: I thought this was covered Thursday,
6 Mr. Denton.

7 MS. SHROFF: This is yours, 506.

8 THE COURT: It's a simple answer. Is it in evidence
9 or isn't it in evidence?

10 MR. DENTON: Your Honor, 506 is in evidence. The
11 underlying regulation is not.

12 MS. SHROFF: I'm not reading an underlying regulation,
13 which I don't even have. I'm reading literally from the
14 document.

15 THE COURT: Go ahead.

16 MS. SHROFF: Could somebody highlight it for him so
17 that everybody's clear.

18 Q. Do you see, "The employee may not disclose classified
19 information, including agency affiliation if under cover,
20 without agency authorization?"

21 Do you see that line? Right?

22 A. Yes.

23 Q. OK. That's about classified documents, correct?

24 A. Yes.

25 Q. OK.

K2oWsch2

Small - Cross

1 A. It's about classified information, yeah.

2 MS. SHROFF: Let's pick another color and then go to
3 "pursuant to agency regulation."

4 Q. Do you see that regulation applies to nonclassified
5 documents, including emails or regulations from the agency,
6 correct?

7 A. State your question again, please?

8 Q. Sure. Agency regulation 10-16 does not cover classified
9 information, correct?

10 A. I don't know if it covers all CIA -- I think it covers, it
11 covers all CIA documents, classified or not.

12 Q. Really? It says right here, "Pursuant to agency regulation
13 10-16, the employee is prohibited from removing any CIA
14 documents, emails or regulations from the agency." Right?

15 A. Yes, so --

16 Q. OK.

17 A. Your question was if it applied to only -- I would think
18 that would apply to all documents, classified or unclassified.

19 Q. OK. So according to the way you read this document, a CIA
20 employee can never take any documents out of the CIA, ever,
21 right?

22 A. May I have a moment to read the --

23 Q. Sure.

24 A. All right. Is that -- your question?

25 Q. My question is, is it your reading of this regulation that

K2oWsch2

Small - Cross

- 1 no one can take any document outside the CIA ever?
- 2 A. I don't read it -- I think you got to have prior approval.
- 3 Q. Where does it say that?
- 4 A. The --
- 5 Q. Let's start with the yellow section, "The employee may not
6 disclose classified information, including agency affiliation
7 if under cover, without agency authorization" --
- 8 A. Uh-huh.
- 9 Q. Correct?
- 10 A. Right.
- 11 Q. That says if it's classified, you need authorization,
12 right?
- 13 A. Yes.
- 14 Q. Right. And then it directs you, it gives you no reg.
15 number for that, correct?
- 16 A. It gives you -- yeah, with the yellow statement, there's no
17 regulation number --
- 18 Q. Right.
- 19 A. -- with this snippet of this -- of this paragraph.
- 20 Q. Right. And that snippet, as you call it, deals with
21 classified information, correct?
- 22 A. Yes.
- 23 Q. OK.
- 24 A. The yellow highlighted snippet.
- 25 Q. And then it directs you to an agency regulation, right?

K2oWsch2

Small - Cross

- 1 A. Yes.
- 2 Q. And that regulation says -- it gives you a number, 10-16,
3 correct?
- 4 A. Yes.
- 5 Q. And that regulation tells you that the person is prohibited
6 from removing CIA emails, correct?
- 7 A. Uh, yes.
- 8 Q. Or even regulations. Even if you take the regulation about
9 the email outside the CIA, that's also wrong, correct?
- 10 A. That's --
- 11 Q. By all regulations from the agency, correct?
- 12 A. By itself, yes.
- 13 Q. So there are two separate categories of documents, correct?
14 Could you agree with me that an email could be an agency
15 email that is not classified?
- 16 A. There are unclassified emails that are agency emails.
- 17 Q. Right.
- 18 A. Yes, I can agree with you on that.
- 19 Q. There are agency documents that are not classified,
20 correct?
- 21 A. Yes.
- 22 Q. Right. And you would agree with me, would you not, that
23 the CIA has separate rules for nonclassified and classified
24 documents? Correct?
- 25 A. Well, they're -- you handle the materials differently.

K2oWsch2

Small - Cross

1 Q. Exactly. In fact, you would know. You set up SCIFs,
2 correct?

3 A. Yes.

4 Q. Right. And you would, in fact, insist that I, for example,
5 should handle a classified document differently than an
6 unclassified document, correct?

7 A. Uh -- uh, yes.

8 Q. Right. There are classified documents --

9 MS. SHROFF: You can stay that down, please.

10 Q. There are classified documents, correct?

11 A. There are classified documents.

12 Q. Different levels of classification, correct?

13 A. Yes.

14 Q. There are unclassified documents with different
15 classifications, correct?

16 A. There's unclassified documents, yes.

17 Q. Right. There are for-office-use-only documents, correct?

18 A. It would be classified, for official, for official use
19 only.

20 Q. No, no. For official use only is not always classified,
21 correct? You can have a for-official-use-only document that is
22 absolutely not classified, correct?

23 A. It would be unclass -- there are unclassified FOU
24 documents.

25 Q. Right.

K2oWsch2

Small - Cross

1 A. Yes.

2 Q. So your earlier answer was wrong, correct?

3 MS. SHROFF: I withdraw that.

4 Q. And you also have agency-use-only documents that are for
5 agency use that are also not classified, correct?

6 A. Uh, there are documents that are unclassified that are
7 deemed AIU.

8 Q. Right.

9 A. Agency internal use only.

10 Q. Right. Not classified, correct?

11 A. Yes.

12 MS. SHROFF: OK. Now, let's move on to exhibit 1044
13 for a minute, shall we?

14 Q. You testified about this on your direct testimony, did you
15 not? Do you recall that?

16 A. Could you repeat that? Sorry.

17 Q. Sure.

18 THE COURT: You testified about this on Thursday.

19 THE WITNESS: OK.

20 THE COURT: Did you?

21 THE WITNESS: Yes. This email.

22 BY MS. SHROFF:

23 Q. And Mr. Denton focused you on the language that says
24 "seriously," right? He asked you questions about whether or
25 not you were taking Mr. Schulte's complaint seriously, correct?

K2oWsch2

Small - Cross

1 A. Yes.

2 Q. OK. And you testified, did you not, that you were, in
3 fact, taking his personal safety seriously? Correct?

4 A. Yes.

5 Q. Do you, by any chance, know how much of your time in your
6 April 2016 interview of Mr. Schulte you spent talking about the
7 media versus his personal safety?

8 A. I can't recall the ratio.

9 Q. Do you recall, sitting here today, asking him any questions
10 about how he was feeling that day?

11 A. I can't specifically recall me, me asking that.

12 Q. OK. Thank you.

13 A. I think I would have.

14 Q. I didn't ask you if you would have.

15 A. I can't even recall the specifics of an interview from a
16 20 -- certain aspects of the specifics of a 2016 interview.

17 Q. I see. But you do recall reading this email from 2016 and
18 remembering that you took his complaint seriously? That you
19 recall?

20 A. Yeah.

21 Q. OK. Now, let's just keep going.

22 You testified on direct also, s right, that your office,
23 which is SIB, had very different resources than TMU, correct?

24 A. Yes.

25 Q. Right. And you had different resources because you had a

K2oWsch2

Small - Cross

1 different job than TMU, correct?

2 A. Yes.

3 Q. And in fact, on direct, you testified that you had a
4 different skill set than TMU, correct?

5 A. Yes.

6 Q. And isn't it true, sir, that when you are talking about
7 taking something seriously, what you are taking seriously is
8 the documents involved in the court action? Correct?

9 A. That's one of the things I took seriously, yes.

10 MS. SHROFF: Let's move on to exhibit 506.

11 Oh, no. I did that already. Sorry.

12 Q. Now, let me ask you something. When you spoke to
13 Mr. Schulte in your April interview, right --

14 A. Yeah.

15 Q. -- you testified that you took his complaint about being
16 threatened seriously? Correct?

17 A. Yes.

18 Q. OK. And after that meeting, did you report back to anyone
19 about his personal safety?

20 A. Yes.

21 Q. Really? Who?

22 A. My immediate management.

23 Q. You reported back to your immediate management?

24 A. Yeah.

25 Q. And what do you recall now reporting back to your immediate

K2oWsch2

Small - Cross

1 management?

2 A. Well, they were -- I briefed them on the aspects of the
3 interview and, you know, told them about, you know, personal
4 safety issues; told them about -- you know, just the interview
5 in general. You know, it's kind of -- any time we interview,
6 we always talk with our management afterwards.

7 Q. Any time you talk to somebody, you go back and talk to your
8 management afterwards?

9 A. Typically, yeah.

10 Q. OK. So then, typically, after you spoke to Amol, you went
11 back and talked to your management about your interview with
12 Amol, right?

13 A. Yes.

14 Q. And the same with all of the other eight people that you
15 interviewed, correct?

16 A. Yes, absolutely.

17 Q. OK. All right. And when you were interviewed Mr. Schulte,
18 by the way, he was alone in the room with you, correct?

19 A. Yes.

20 Q. He didn't have a lawyer there, correct?

21 A. No, he did not.

22 Q. The CIA doesn't have a union, so he had no union rep there,
23 correct?

24 A. There was no union rep there.

25 Q. Right.

K2oWsch2

Small - Cross

1 MS. SHROFF: Let's look at 508 for a minute.

2 Q. That's one of the snippets that Mr. Denton played for you?

3 MS. SHROFF: Your Honor, I'm not going to play it
4 again, even though it's been a while.

5 THE COURT: All right.

6 MS. SHROFF: If it's OK, we can just use the
7 transcript.

8 THE COURT: Sure.

9 BY MS. SHROFF:

10 Q. When you were played that recording, right --

11 This is your April 8 recording, right?

12 -- you talk to him, do you not, about the outside
13 activities report, right?

14 A. Yes, we talked about that.

15 Q. You tell him it's a living document; it's not one that you
16 just submit, correct?

17 A. Yes.

18 Q. And you asked him --

19 MS. SHROFF: Please move to the page, 2 or 3.

20 Q. And you ask him if he foresees going to the media, correct?

21 A. Yes.

22 Q. He tells you that depends on what his lawyer says, correct?

23 A. Trying to find that specifically.

24 Q. Look at page 4.

25 MS. SHROFF: Let's just keep going, in the interest of

K2oWsch2

Small - Cross

1 time. OK?

2 Q. He tells you, does he not, that he would go -- he went to
3 the lawyer and to the media because he was upset, correct?

4 A. Yes.

5 Q. And he tells you he was upset because he felt he wasn't
6 treated fairly, correct?

7 A. Uh, yes.

8 Q. Right. Do you, by any chance, say to him: Hey, I'm very
9 concerned that you feel this way. Why do you feel that you
10 weren't treated fairly?

11 A. I asked him --

12 Q. No, no. Look at the transcript.

13 A. OK. Which? Which specific part are we looking at?

14 Q. Just take a look at page 4.

15 A. OK. I need a moment here.

16 Q. He tells you, up top: "I feel like I've been -- since the
17 onset they told me it wasn't a big deal"; correct? Do you see
18 that? He's telling you how security reacted to him, correct?

19 A. Yeah, he's telling me how he feels -- how he felt.

20 Q. Right. He tells you somebody told him that they didn't
21 have time to play high school counselor, correct?

22 A. Yes.

23 Q. Right. He tells you that "I feel like I've been unfairly
24 punished and treated by this," correct?

25 A. Yes.

K2oWsch2

Small - Cross

1 Q. He said he feels like he's forced in a corner, nowhere else
2 to go, correct?

3 A. Yes.

4 Q. If he feels that way, he will file a lawsuit and go to the
5 media, correct?

6 A. Yes.

7 Q. If he feels that way, right?

8 A. If he has to.

9 Q. Right. If he has to.

10 A. "If I have to" is his quote.

11 Q. Right. And you say, in response to all of this -- of him
12 telling you he feels unfairly treated, poorly treated -- you
13 reply, "I hear what you're saying. And you know, and of
14 course, you know, you can pursue a legal avenue," right?

15 A. Yes. Yeah.

16 Q. That's what you say, right?

17 A. Yes.

18 Q. OK. And then you go on to say, "Whether you work for an
19 agency or you work for another company, just keep us up to
20 date," correct?

21 A. Yes.

22 MS. SHROFF: Let's look at the next paragraph.

23 Q. Keep us up to date. And then he reassures you, does he
24 not, about the thing that is important to you? He reassures
25 you and says: I'll try and do everything by the book, you

K2oWsch2

Small - Cross

1 know, definitely make it, let you guys know," right?

2 A. Uh-huh, yeah.

3 Q. Right there, right?

4 A. Yeah.

5 Q. And then he says to you, Hey, Mr. Small, what's your
6 opinion?

7 A. Uh-huh.

8 Q. Right?

9 A. Yeah.

10 Q. OK. Let's see what your answer is.

11 "I'm still in the fact-finding phase, you know, at this
12 point because we've covered a lot of, you know, ground and
13 stuff up until now. You had mentioned how you wanted, you
14 know, you want to, to get resolved. What is -- what is the, I
15 guess what's the best resolution, you know, from, like your
16 optic? Like, what's, what is, what is the desired outcome,"
17 correct?

18 A. Uh-huh.

19 Q. No talk about him that you feel this was a high school
20 fight, correct?

21 A. No.

22 Q. No reassuring him everything's going to be fine, correct?

23 A. Correct.

24 Q. No response about his physical feeling of being treated
25 unfairly, correct?

K2oWsch2

Small - Cross

1 A. At that time, yeah.

2 Q. OK. Then he tells you, does he not, at some point, as you
3 keep going deeper and deeper into the conversation, that he
4 wants to sit down and try and figure things out with
5 management. Do you see that?

6 A. Highlight it.

7 Q. Right? Do you see that?

8 A. Yes, I see that.

9 Q. And then he says, "especially this EAP thing, why this
10 is -- I want to figure out -- I feel like I'm being kept in the
11 dark on a lot of this stuff. I don't understand why someone
12 would tell Amol some of these things and why I've been treated
13 the way that I have been treated and I feel like there
14 definitely needs to be some kind of punishment for my" --

15 MS. SHROFF: Let's go to the next line.

16 Q. -- "management for treating me like this," correct?

17 A. Yes.

18 Q. OK. And you testified on direct that you thought it was
19 odd that he was focused on punishment, correct?

20 A. Uh, yeah.

21 Q. Right. And before this, you have not focused on anything
22 at all having to do with these threats, right? I'm just
23 talking about this exhibit. Right?

24 A. I don't know what I've talked to him before at this point.

25 Q. It's OK.

K2oWsch2

Small - Cross

- 1 A. In the --
- 2 Q. It's in evidence. We'll figure it out.
- 3 A. -- conversations or in --
- 4 Q. No, no. I'm only talking about this exhibit, sir.
- 5 A. From what you -- you've only showed me this one small part.
- 6 I don't know what was before it.
- 7 Q. That was what Mr. Denton showed you on direct. It's the
- 8 same document.
- 9 A. OK.
- 10 Q. OK. And then in the very next line, Mr. Schulte tells you
- 11 what punishment he thinks is proper. Why don't you read it to
- 12 me?
- 13 A. The whole -- which? Starting --
- 14 Q. Just the "I," comma?
- 15 A. "I, like, some kind of management for treating me like this
- 16 and I, like, some kind of apologies."
- 17 Q. Right.
- 18 A. "Be like."
- 19 Q. Right. That's his punishment, right?
- 20 A. I'm sorry. What's your question?
- 21 Q. Let's see. The line that he's asked about that you focused
- 22 on, on direct, was that you were surprised that he wanted
- 23 management punished, correct?
- 24 A. Yes.
- 25 Q. And he tells you what the punishment he would impose on

K2oWsch2

Small - Cross

1 management, right?

2 A. Uh-huh.

3 Q. What is the punishment?

4 A. "Like some kind of apologies."

5 Q. Right. Keep going.

6 A. "Be like, you know, we, we, you know, whatever it is, like,
7 we started off wrong with this. We should have treated, you
8 know, more fairly, you know, just some kind of acknowledgment
9 that they made a mistake and I've been treated unfairly and
10 then with this information being leaked and if, and stuff like
11 that, I feel like there needs to be some kind of punishment
12 because I feel like that's illegal. From my, mostly my group
13 chief is who I really fault with a lot of this."

14 Q. OK. And what is the information that he's talking about
15 being leaked?

16 A. Leaked. I can't immediately recall what he's talking about
17 being leaked.

18 Q. You don't recall because you never asked him, correct?

19 A. I --

20 Q. Look at the next line.

21 A. I, I can't recall right now because --

22 Q. I know. Look at the next line.

23 A. -- I don't have the full context to see it in.

24 Q. There's a next line. He's going to highlight it for you in
25 a minute.

K2oWsch2

Small - Cross

1 A. OK.

2 Q. Do you see that next line?

3 A. "Group chief being"?

4 Q. Right. He tells you all of this stuff, right, about how
5 some of his information has been leaked? Correct?

6 A. Uh-huh, yes.

7 Q. You don't ask him, What information are you talking about,
8 correct?

9 A. Not immediately there, no.

10 Q. OK. I'm only talking about immediately there.

11 A. OK.

12 Q. This is what he give us and you follow up and talk about
13 his group chief, correct?

14 A. Uh-huh, yes.

15 MS. SHROFF: OK. We can take that highlighting down.
16 And before we move down this exhibit, let me just go back to
17 the first paragraph. All right?

18 Q. You know he's talking about the fact that Mr. Amol had
19 known how many sessions Mr. Schulte had attended as a result of
20 being directed to the employee assistance program, correct?

21 A. Are you ask -- asking me if I --

22 Q. Yes, I'm asking you.

23 A. So, give your full question. Sorry.

24 Q. When he's telling you about what information of his that
25 was leaked, he's talking about the referral he was given to go

K2oWsch2

Small - Cross

- 1 to EAP, correct?
- 2 A. OK. Yeah.
- 3 Q. Right?
- 4 A. Yes. That's what it appears to be.
- 5 Q. Right.
- 6 A. Right here.
- 7 Q. And he tells you that he's upset because Amol --
- 8 A coworker, correct?
- 9 A. Yes.
- 10 Q. -- knew that he had been sent to counseling, correct?
- 11 A. That's what Josh said, yeah.
- 12 Q. Right. That he had been sent to counseling twice, correct;
- 13 according to Amol, had been sent to counseling twice?
- 14 A. According to Amol, Josh is saying according to Amol that he
- 15 had --
- 16 Q. Right. Right?
- 17 A. Yes.
- 18 Q. Right. And it was all in those court documents because
- 19 that's what Amol told the judge, correct?
- 20 A. I can't immediately -- I can't immediately recall the
- 21 back-and-forth between the two individuals with the judge.
- 22 I -- it doesn't -- I can't -- it doesn't immediately pop into
- 23 my memory, you know. If we could show it.
- 24 Q. But you took it all very seriously, right?
- 25 A. I took it all very seriously.

K2oWsch2

Small - Cross

1 Q. Right. That's why you know why Mr. Schulte was upset about
2 the EAP referrals, correct?

3 MS. SHROFF: I'll move on.

4 Q. By the way, is there a CIA regulation that prohibits anyone
5 from telling another coworker about referrals to employment
6 assistance programs?

7 A. I'm unaware of a specific regulation.

8 Q. I see. Are you aware of a regulation that prohibits CIA
9 people from sharing psychological information with other people
10 within the CIA?

11 A. I'm --

12 Q. Are you?

13 A. I'm unaware of the specific regulation. I can't quote it
14 for you. I know the EAP is something we -- yeah, I -- I --
15 I -- I -- that is something that -- yeah, I guess the -- I'm
16 unaware. I can't quote you a regulation.

17 Q. You can only testify about regulations that were shown to
18 you in preparation for today, correct?

19 A. I could testify on regulations that I'm aware of or that
20 I -- I've known personally. Some regulations I know, but --

21 Q. OK.

22 A. You know.

23 Q. Well, here's a person you're interviewing, correct?

24 Mr. Schulte, right?

25 A. Yeah, I'm interviewing Mr. Schulte.

K2oWsch2

Small - Cross

1 Q. Right. And he's telling you he's upset about his medical
2 information being shared with Amol; the very next words,
3 "allegedly threatened him" -- you used the word allegedly many
4 times, but we'll get to that -- right? This is information
5 being shared with Amol, correct?

6 A. Yeah, Josh was alleging that information was shared by
7 Amol.

8 Q. Right. And had you read the transcript, you would know if
9 that was true or not, correct?

10 A. Had I -- had I --

11 Q. Had you read the court transcript --

12 A. By reading the transcripts, I wouldn't -- I guess, when you
13 say by me reading the transcript, I wouldn't know if it was
14 Amol who, who shared it to EAP or not. I'm kind of confused by
15 the nature of --

16 Q. Really? If you read the court transcript, it wouldn't say
17 what Amol had told the judge, in the court transcript?

18 A. Oh, I thought you were alleging that Amol actually was the
19 one who said that. I'm kind of confused here. Could you
20 rephrase your full, full question?

21 Q. Did you ever check if, in fact, Amol had ever told the
22 state court judge that Mr. Schulte had been referred to EAP for
23 counseling?

24 A. Not that I can recall.

25 Q. Right. You never verified if this was actually true,

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Small - Cross

1 correct?

2 A. I can't recall.

3 Q. Right. You never verified if, in fact, Josh was right to
4 be upset about the sharing of this information, correct?

5 A. I -- I -- I can't recall.

6 MS. SHROFF: OK. You can take that down.

7 Q. By the way, when that recording was being played for you on
8 Thursday, do you recall the tone that Mr. Schulte had when he
9 was talking to you?

10 A. Uh, yeah.

11 Q. Did he sound angry in his tone?

12 A. In his -- in his tone, not like angry, but -- angry, like,
13 how so?

14 Q. In any way angry.

15 A. Any way. He was -- he was angry with management.

16 Q. Really? The tone sounds angry with management?

17 A. Yeah.

18 MS. SHROFF: Let's play a clip, any clip. Pick any
19 one of these. Let's play 3508 for a few minutes.

20 A. But he was not loud or shouting, if that's --

21 Q. OK. Let's see. You can be angry without loud and
22 shouting. That's what you're getting at, right?

23 Is that what you're getting at?

24 A. Let's play the clip again.

25 (Audio played)

K2oWsch2

Small - Cross

1 MS. SHROFF: You can stop just for a minute.

2 MR. DENTON: Judge, I think we should play the part
3 that she was asking the witness about.

4 MS. SHROFF: I was going to, but sure.

5 THE COURT: All right. Go ahead.

6 BY MS. SHROFF:

7 Q. On the snippet that I was playing, he doesn't sound angry,
8 right?

9 A. On the snippet that was played, he does not sound angry.

10 Q. Right. He sounds monotone, correct?

11 A. Yes.

12 Q. OK.

13 A. In that snippet.

14 (Audio played)

15 MS. SHROFF: Fast forward.

16 (Audio played)

17 MS. SHROFF: Let's pause there.

18 Q. Sound angry to you?

19 A. Yeah, he sounds a little angry and frustrated to me.

20 Q. He sounds -- it is your testimony that he sounds angry and
21 frustrated to you?

22 A. Yeah.

23 MS. SHROFF: OK. Let's keep playing.

24 (Audio played)

25 MS. SHROFF: Pause.

K2oWsch2

Small - Cross

- 1 Q. And it is your testimony that he sounds angry in this call?
- 2 A. Yeah, he sounded to me a little, because he speed up, he
- 3 sped up his pace, and at the time, you know --
- 4 Q. I didn't ask you --
- 5 A. -- I recall his demeanor.
- 6 Q. Sir.
- 7 A. He seemed angry.
- 8 Q. Sir, listen to my question.
- 9 A. Uh-huh.
- 10 Q. Is it your testimony, under oath, that you think
- 11 Mr. Schulte sounds angry?
- 12 A. Yes.
- 13 MS. SHROFF: OK. Let's keep playing.
- 14 (Audio played)
- 15 MS. SHROFF: Can you fast forward a little bit.
- 16 (Audio played)
- 17 MS. SHROFF: OK. You can pause that there.
- 18 Q. Is it your testimony that he sounds angry?
- 19 A. He sounds slightly angry, yeah.
- 20 Q. Slightly angry?
- 21 A. Yeah, frustrated.
- 22 Q. OK.
- 23 A. Stressed.
- 24 Q. Frustrated, stressed?
- 25 A. Uh-huh.

K2oWsch2

Small - Cross

- 1 Q. That's not what I asked you.
- 2 A. OK.
- 3 Q. I asked you if he sounded angry.
- 4 A. Yes.
- 5 Q. OK. Let's try this. You have a person sitting in an
6 interview with you, correct?
- 7 A. Yes.
- 8 Q. You think he sounds angry, right?
- 9 A. Yes.
- 10 Q. You don't say to him: Hey, calm down. There's no reason
11 to be angry? Do you say that to him?
- 12 A. I did not say that to him.
- 13 Q. Right. You're security, right?
- 14 A. Yes.
- 15 Q. You want to de-escalate, correct?
- 16 A. Yes.
- 17 Q. You don't want an angry man walking out of the room,
18 correct?
- 19 A. No.
- 20 Q. Right. You want a calm man walking out of the room, right?
- 21 A. Yes.
- 22 Q. Do you say to him: Hey, Josh, let's take a break. You
23 let's frustrated. Let's just take a minute? Do you say that
24 to him?
- 25 A. No.

K2oWsch2

Small - Cross

1 Q. You don't say: Hey, wow, you sound angry. I'm taken
2 aback. No, right?

3 A. No.

4 Q. All during this interview you never once mentioned his
5 tone, correct?

6 A. No.

7 Q. You're running the interview, right?

8 A. Yes.

9 Q. You never once say: Let's take a break. You sound angry.
10 Right?

11 A. I could have.

12 Q. Never say you sound stressed, correct?

13 A. I did not say that.

14 Q. Never once say you sound frustrated, correct?

15 A. No.

16 MS. SHROFF: OK. Let's move on to 1062.

17 Q. You testified about this document too, correct?

18 A. Yes.

19 Q. Right. And this document was forwarded to you, correct?

20 A. Yes.

21 Q. OK. And Mr. Denton, in his direct testimony, focused on
22 this document and said -- I think he focused you on this
23 language that said: "The administrative access reinitiation
24 was not a simple click and play. It was a deliberate command
25 to server," right, "to allow administrative accesses"? Right?

K2oWsch2

Small - Cross

1 A. Yes.

2 Q. And then it says: "By the way, the systems are related to
3 operations efforts. I fully concur with Anthony's concerns."
4 Correct?

5 A. Yes.

6 Q. And who sends this document to you?

7 MS. SHROFF: You can take that down.

8 Q. Who sent this document to you; do you remember?

9 A. The person who sent that to me is Dana.

10 Q. And who is Dana?

11 A. Dana is the area security officer for the group that -- for
12 the larger group that Mr. Schulte worked in.

13 Q. Right.

14 A. Security-coordinator guy.

15 Q. OK. He's the security-coordinator guy?

16 A. Yeah. That's my way of describing what the area security
17 officer does, but the official title is he's the area security
18 officer for a larger group that Mr. Schulte worked for at that
19 time.

20 Q. Right. He is not a coder?

21 A. He is not a coder, no.

22 Q. He is not a developer?

23 A. He is not a developer.

24 Q. And he's forwarding to you, he's relaying to you what he
25 thinks is what he's told by Anthony, correct? Look at the

K2oWsch2

Small - Cross

1 email.

2 A. Yeah. Yes.

3 Q. And is Anthony a coder by this point?

4 A. I'm not sure if Anthony is -- let me, one second. Let me
5 look here.

6 I can't recall if Anthony is a coder or not. I think it's
7 my knowledge he was in --

8 Q. Management?

9 A. -- josh's management chain of some sort. I don't know as
10 far as his coding background or not-coding background.

11 Q. Right. You get this email that's sent to you by Dana,
12 right?

13 A. Yes.

14 Q. Do you follow up and figure out if access reinitiation is,
15 in fact, just a simple click and play?

16 A. I can't recall what I immediate -- what I, how I followed
17 up on this email specifically.

18 Q. You don't even recall if you followed up on this email
19 specifically, correct?

20 A. I can't recall.

21 Q. Right. And you, sitting here today, have no idea at all
22 how access is reinitiated, correct?

23 A. I can't recall how access --

24 Q. Sir --

25 A. -- was initiated.

K2oWsch2

Small - Cross

1 Q. -- listen to my question. Sitting here today, do you know
2 how access is initiated?

3 A. No.

4 Q. You do not know how it's initiated or how it's reinitiated,
5 correct?

6 A. Are -- which system are we talking? Are we talking
7 about --

8 Q. Did you ask Mr. Denton all of these questions when he was
9 reviewing 1062 with you?

10 A. Which questions are you referring to, ma'am?

11 Q. Questions I'm asking.

12 THE COURT: Questions just asked by Ms. Shroff.

13 A. I'm sorry. I've kind of spun around here. Could you
14 repeat your question again? I'm so sorry.

15 THE COURT: You ask Ms. Shroff a lot of questions in
16 response to the questions she puts to you.

17 THE WITNESS: OK.

18 THE COURT: The question for you now is did you do
19 that to Mr. Denton when he was preparing you for your testimony
20 here?

21 THE WITNESS: When he was preparing me for this? I --

22 BY MS. SHROFF:

23 Q. When he asked you questions in court, sir, did you reply
24 with a hundred questions, or did you answer him?

25 A. Oh, I -- I answered them.

K2oWsch2

Small - Cross

1 Q. OK. So let's see if you can do that for me. All right?

2 A. OK. I'm --

3 Q. So, on administrative access reinitiation, sitting here
4 today, do you know how to do that?

5 A. No, I do not know how to do it.

6 Q. And you do not know if it is, in fact, a simple click and
7 play, correct?

8 A. Sitting here today, I do not know.

9 Q. You testified on direct that reading this increased the
10 scope of your investigation, correct?

11 A. Yes.

12 Q. How?

13 A. Well, when -- when Dana forwarded -- when Dana forwarded me
14 and my management this email, you know, we had to, you know --
15 anytime someone has el -- anytime someone has given access to
16 themselves, that's always something that, historically, you
17 would want to -- we'd want to look into, so, when someone's
18 doing that, particularly if they've been told no, that that's
19 something we had to look into.

20 Q. So you had assumed that someone had told him no, correct?

21 A. Uh --

22 Q. You just testified to that.

23 A. Yeah, yeah, yeah.

24 Q. Right. You assumed that somebody had told him no, right?

25 A. Yeah. That's what I meant, yes.

K2oWsch2

Small - Cross

1 Q. Right. And you assumed he had reinitiated his own access
2 without authority, correct?

3 A. I didn't --

4 Q. Yes or no. Right?

5 A. Like -- rephrase your question, please?

6 Q. You assumed that he had reinstated his access without
7 authority, correct? You assumed that to be correct, correct?

8 A. Yeah, I had --

9 Q. Right.

10 A. -- had to follow up on the reporting that was sent to me.

11 Q. And in following up on the reporting, did you ask someone
12 to explain to you what a deliberate command to server was?

13 A. I can't immediately recall what I -- the next step that I
14 took for, in response to this specific email.

15 Q. In fact, you don't even know if you asked anyone at all
16 what is a deliberate command to server, correct?

17 A. I can't immediately recall what I asked at that time.

18 Q. Right. And you don't recall, sitting here today, what is a
19 deliberate command to server, correct?

20 A. I -- I can't recall what a deliberate command to a --
21 the -- the server is.

22 Q. In fact, sitting here today, you don't even know which
23 server they're talking about, correct?

24 A. With here?

25 Q. No.

K2oWsch2

Small - Cross

1 A. Based upon --

2 Q. No, no.

3 A. They were talking about the DevLAN system at this point.

4 Q. OK. So you think they're talking about the DevLAN system
5 at this point, right?

6 A. Yes.

7 Q. And you think that somebody's telling you that he gave a
8 deliberate command to server, correct?

9 A. Uh, yeah.

10 Q. Do you know of any command to a server that would not be
11 deliberate? What would be an indeliberate command to server?

12 A. As a -- I don't know -- if it would a automatic or if,
13 like, instatement that was like built into the -- you know,
14 built into the computer itself, but a deliberate, meaning I
15 interpreted that to mean Josh took direct action to truly input
16 the command --

17 Q. Right.

18 A. -- as opposed to something that happens in the background
19 unbeknownst to him.

20 Q. It's not talking about an automatic command, correct?

21 A. Correct. It's talking about a deliberate.

22 Q. Right. And I'm asking you if there's anything such as an
23 indeliberate command? Did you ask anyone, What would be an
24 indeliberate command to a server?

25 A. I don't recall asking anyone --

K2oWsch2

Small - Cross

- 1 Q. OK.
- 2 A. -- what would be an indeliberate command to a server.
- 3 Q. Did you ask Dana, Hey, can you walk me through what command
4 they're talking about to the server?
- 5 A. I did have discussions with Dana about this, but the
6 specifics of it I can't immediately recall, when I asked him
7 to, you know, explain how the, you know, how it's set up or
8 from what Anthony had relayed to him.
- 9 Q. OK. So you talked to Dana about DevLAN, correct?
- 10 A. Yes, I did talk to Dana about DevLAN at points during the
11 investigation.
- 12 Q. Good. And then you talked to him about commands given to
13 DevLAN, correct?
- 14 A. Yes.
- 15 Q. And you talked to him about the DevLAN system, correct?
- 16 A. Yes.
- 17 Q. And you talked to him about access to DevLAN, correct?
18 Right?
- 19 A. If I recall, yes.
- 20 Q. Right. And your investigation is focused on Mr. Schulte,
21 correct?
- 22 A. One of my investigations was focused on Mr. Schulte, yes.
- 23 Q. Right. And so you talked to Dana about Mr. Schulte's
24 access issues, correct?
- 25 A. Uh -- yes, ma'am.

K2oWsch2

Small - Cross

1 Q. Good. OK. Let's keep moving?

2 THE COURT: Why don't we take our morning break now.
3 We'll resume at 11:15.

4 (Continued on next page)

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K2oWsch2

Small - Cross

1 (Jury not present)

2 THE COURT: You can step down.

3 THE WITNESS: OK.

4 (Witness not present)

5 THE COURT: Please be seated.

6 How much more do you have, Ms. Shroff?

7 MS. SHROFF: An hour, but if he keeps on answering
8 this way, it could go longer.

9 THE COURT: How long was he an direct?

10 MR. DENTON: About an hour and a half, your Honor.

11 THE COURT: We started at 9:15 this morning. You've
12 been at it for an hour and three-quarters.

13 MS. SHROFF: I know, but as I pointed out, the man
14 seems to have a different way of answering on
15 cross-examination. And I'm not even playing the recordings
16 again.

17 MR. DENTON: Your Honor, honestly, I'm confused by a
18 lot of Ms. Shroff's questions so, I don't think it's fair to
19 put this on the witness.

20 MS. SHROFF: It's a good thing a prosecutor is
21 confused by a defense lawyer's questions. If they made
22 sense --

23 THE COURT: I'm not confused. I don't think the
24 jury's confused either. The question is how much longer do you
25 have to go to keep on making the same point, Ms. Shroff?

K2oWsch2

Small - Cross

1 MS. SHROFF: Well, I'm trying to cut it down, your
2 Honor. I am really trying to not make the same point, but the
3 answer is the problem. I'm really sorry. It's not like I
4 haven't broken it down in minuscule portions, but I will make
5 an effort to go better.

6 MR. DENTON: Your Honor, I think part of the problem
7 here is that Ms. Shroff is asking the witness to recall things
8 from an interview four years ago, that was recorded, that we
9 told Ms. Shroff we would prepare any portions of the recordings
10 she wanted to play to have available. They declined to have us
11 do that. That's what's creating this problem. We could have
12 just prepared recordings if told us what she wanted.

13 THE COURT: Well, I think Mr. Small has a very
14 convenient memory.

15 Ms. Shroff, I'm going to ask you to speed it up.

16 MS. SHROFF: I will try, your Honor. I promise.

17 THE COURT: I don't want to impose a limit.

18 MS. SHROFF: I'm sorry?

19 THE COURT: I don't want to impose a limit, but I will
20 impose a limit.

21 MS. SHROFF: I will move along, your Honor. Thank
22 you.

23 THE COURT: See you at 11:15.

24 (Recess)

25

K203SCH3

Small - Cross

1 (In open court; jury present)

2 THE COURT: All right, Ms. Shroff.

3 BY MS. SHROFF:

4 Q. Mr. Small, do you recall being shown this document which is
5 in evidence as 1061?

6 A. Yes.

7 Q. That document is a document from Mr. Weber to Mr. Schulte,
8 correct?

9 A. Yes.

10 Q. That has to do with OSB libraries, correct?

11 A. Yes.

12 Q. If I could just go back to that original screen for a
13 minute. It's on April 14, correct? You see that?

14 A. Yes.

15 Q. And it's at 3:30 p.m., correct?

16 A. Yes.

17 Q. Could you tell me, sir, on what date Mr. Schulte's access
18 to OSB libraries was removed?

19 A. I can't immediately recall that date.

20 Q. How about if I tell you it was April 4.

21 Can somebody pull that up for him.

22 Let me show you what is Government Exhibit 1703.

23 Slide 39 and 43. Okay? Do you recall now that it was April 4,
24 2016? If you can blow up the slide 43 and you can see that
25 Mr. Weber has gone in and removed Schuljo's access. Correct?

K203SCH3

Small - Cross

1 A. I see that.

2 MS. SHROFF: You can take that down.

3 Q. April 4, as you can see from the government's slide up
4 here, 39, is when he loses privileges to OSB and Brutal
5 Kangaroo, but we're focused on OSB, correct?

6 A. The e-mail is focused on OSB, yeah.

7 MS. SHROFF: You can take that down as well.

8 Q. Would you agree with me now that the date on the e-mail is
9 April 14, correct?

10 A. Yes.

11 Q. That's a full 10 days after his access has been taken away,
12 correct?

13 A. Yeah, correct.

14 Q. Okay. And you were also shown an e-mail from Mr. Sean F.,
15 correct, about the OSB access, correct, and Mr. Sean F. says
16 that he never tells Mr. Schulte that he can get his access
17 back, correct?

18 A. I do recall that e-mail.

19 Q. You also recall that his access, according to Mr. Weber --
20 by "his access" I mean Mr. Schulte's access -- to OSB libraries
21 is taken away because he has moved branches, correct?

22 A. Yes.

23 Q. Now, this is an e-mail from Mr. Weber, correct?

24 A. Yes, this e-mail is from Mr. Weber.

25 Q. To Mr. Schulte, right?

K203SCH3

Small - Cross

1 A. Yes.

2 Q. It does not speak at all to Mr. Schulte moving branches,
3 correct?

4 A. It does not speak to moving branches, correct.

5 Q. Right. It just simply talks about how in the short term
6 OSB libraries remain an OSB project, correct?

7 A. It does say that.

8 Q. Right. And this is 10 days after his access is completely
9 removed, correct?

10 A. It is 10 days after the thing that you just showed me.

11 Q. Right.

12 A. Yeah.

13 Q. Mr. Schulte's access was removed, correct?

14 A. Yeah. I wouldn't mind seeing that screenshot again,
15 actually.

16 MS. SHROFF: Sure. Can you just show him Government
17 Exhibit 1703.

18 Q. April 4, 2016.

19 A. Yeah. I guess I'm just, on this exhibit, I'm looking for
20 the actual date within the data itself.

21 MS. SHROFF: Can you show him the prior slide, the one
22 that says he loses access on 4/4.

23 THE COURT: It is in evidence as April 4.

24 THE WITNESS: Okay.

25 Q. Do you recall, sir, during your investigation, seeing any

K203SCH3

Small - Cross

1 e-mail between April 4, when the access is removed, to
2 April 14, when Mr. Schulte first learns that his access is
3 removed, any e-mail at all that tells Mr. Schulte your accesses
4 have been removed?

5 A. I can't recall any specific e-mail regarding that during
6 that time frame one way or another.

7 Q. Okay. So it's fair to say you don't see any e-mails from
8 Mr. Weber telling Mr. Schulte your accesses have been removed
9 since you moved branches, correct?

10 A. I can't recall -- I can't recall the specifics any of
11 e-mail chain or the e-mail chains that occurred during that
12 time frame.

13 Q. Do you recall any e-mails from management telling
14 Mr. Schulte you have moved from OSB to RDB, your access to OSB
15 libraries has now been terminated?

16 A. I remember seeing e-mails from the management to Schulte,
17 you know, saying things to that effect. But I can't recall the
18 specific date, the specific -- I just can't recall that date.

19 Q. Let's show you 1061. That's dated April 15, correct?

20 A. This e-mail is dated April 15, yes.

21 Q. Let's look at the -- let's scroll down. Again the next
22 e-mail is also April 16, correct? April 15, correct?

23 A. Yes, that e-mail is dated April 15 as well.

24 Q. Good. Then the e-mail from Mr. Leonis to Mr. Schulte is
25 also April 14, correct?

K203SCH3

Small - Cross

- 1 A. It's April 14, yes.
- 2 Q. Correct. Let's keep scrolling down. April 14, correct?
- 3 A. Yes.
- 4 Q. Thursday, April 14, correct?
- 5 A. Yes.
- 6 Q. Okay. Let's keep moving. April 14, 3:30 is another one,
7 correct?
- 8 A. Yes.
- 9 Q. Okay. And that takes care of Exhibit 1061, correct?
- 10 A. Yes.
- 11 Q. And is it correct that none of those e-mails have to do
12 with anything that happened between April 4 and April 14,
13 right?
- 14 A. Well, those e-mails are dated the 14th.
- 15 Q. Right.
- 16 A. Yeah.
- 17 Q. You saw no e-mail to Mr. Schulte that said there has been a
18 change in your OSB libraries privileges, correct, before April
19 14?
- 20 A. Before April 14, I can't ever recall seeing an e-mail.
- 21 Q. Right. But if you recalled seeing that, you would have
22 pointed that out to Mr. Denton, correct?
- 23 A. Yeah, if I recalled seeing that. If asked, I'm going to,
24 you know.
- 25 Q. Mr. Denton asked you a series of questions about Exhibit

K203SCH3

Small - Cross

1 1062, correct?

2 Let's pull up 1062.

3 And in that e-mail, you were shown the section where
4 Mr. Sean F. says that at no time during Mr. Schulte's
5 conversation with Sean F --

6 A. Hold on, just -- all right.

7 Q. -- did we discuss administrator access or any access
8 permissions for that matter to the database, correct?

9 A. Yes, I recall this.

10 Q. By the way, do you know how many types of accesses there
11 are?

12 A. Regarding?

13 Q. OSB libraries.

14 A. OSB libraries. I can't recall the different levels of the
15 access, but, with -- there's different levels of access within
16 the DevLAN system. But OSB libraries specifically, I can't
17 immediately recall the different accesses.

18 Q. Okay. Is it fair to say, sir, that Mr. Schulte still had
19 read access or do you not know?

20 A. At this time in the -- on the 15th I thought he had -- I
21 can't really recall. But I always thought he had the ability
22 for read access. Because it was my understanding that OSB
23 libraries was a -- a tool for a lot of people, a lot of
24 developers to use. So, it was my understanding that he did
25 have some sort of access to be able to read and use the tool.

K203SCH3

Small - Cross

- 1 Q. So it is your assumption he has read access, correct?
- 2 A. Yes.
- 3 Q. Right. He is not going to talk to Sean F. about read
4 access, correct?
- 5 A. Yes.
- 6 Q. He has read access?
- 7 A. It's my understanding he had read access.
- 8 Q. If he has read access, what's he going to talk to Sean F.
9 about?
- 10 A. He was talking -- as my understanding -- that he had talked
11 to Sean about, or that he was going to talk to Sean about
12 the -- his --
- 13 Q. His admin accesses?
- 14 A. His admin accesses being removed from OSB libraries.
- 15 Q. Did you ask or did you point out to Mr. Denton when you
16 reviewed this document with him that it made no sense to you
17 that Mr. -- that Sean F. would say we never talked about admin
18 access?
- 19 A. When you say the document made no sense to me, what do you
20 mean?
- 21 Q. Read the document.
- 22 A. Okay.
- 23 Q. Right? You read it before, right?
- 24 A. Yeah, I've read this.
- 25 Q. Mr. Sean F. is saying that we never, he and Mr. Schulte

K203SCH3

Small - Cross

1 never discussed admin access, correct?

2 A. Correct. That's what Sean is saying.

3 Q. Right. Even you admit that at this moment in time he has
4 read access, correct?

5 A. It was my understanding that, yeah, Josh had read access to
6 OSB libraries.

7 Q. If he has read access, he is not going to talk to Sean
8 about read access, right? He already has it, right?

9 A. Yeah.

10 Q. What he is going to talk --

11 A. I guess to talk about administrative access. That would be
12 the logical thing.

13 MS. SHROFF: You can take that one down.

14 Q. Then Mr. Denton asked you questions about when Mr. Schulte
15 had given himself access back, correct? Do you remember that?

16 A. Yes.

17 Q. He asked you if Mr. Schulte gave himself access back before
18 checking with his supervisors, correct?

19 A. Make that statement again, please?

20 Q. Sure. Mr. Denton, if you recall, asked you whether
21 Mr. Schulte had gotten his OSB libraries privileges back
22 without asking his supervisors, correct?

23 A. Yeah, he asked me about that.

24 Q. You said the answer was yes, correct?

25 A. If I recall, yeah.

K203SCH3

Small - Cross

1 Q. You asked Mr. Schulte that, did you not?

2 A. I seem to recall.

3 Q. Yeah. He told you the truth, right? He said yes, I did it
4 without asking my supervisors, correct?

5 A. I can't recall the nuances of when that immediately
6 appeared on the stage.

7 Q. Let's just keep focusing on your conversations here. Okay.
8 On this exhibit. Mr. Denton also asked you, right, about
9 whether or not Mr. Schulte said he had circled back to
10 Mr. Weber after talking to Sean F. Do you recall that
11 question?

12 A. Yes.

13 Q. And you said that you had wondered why somebody wouldn't
14 want to circle back with someone who apparently made a mistake,
15 correct?

16 A. Yeah, I wondered why he didn't circle back.

17 Q. Mr. Schulte never told you that he thought Mr. Weber had
18 made a mistake in taking away his privileges, correct?

19 A. I can't immediately recall the language which Josh used to
20 categorize his removal from access.

21 Q. Let's take a look here at page 57. You see on the top you
22 asked Mr. Schulte, do you not, that has anybody told him that
23 since he's no longer in OSB, he no longer has privileges,
24 correct?

25 A. Give me just a moment, I'm sorry.

K203SCH3

Small - Cross

1 THE COURT: Can you blow up the portion you are asking
2 about?

3 MS. SHROFF: Sure.

4 A. Okay. Can you repeat your question?

5 Q. You asked him this question, you asked Mr. Schulte this
6 question, correct?

7 A. Yes.

8 Q. Okay. He told you no, correct?

9 A. Correct.

10 Q. And that it's in fact true, right? Nobody had told him,
11 correct?

12 A. I can't immediately recall what -- at this point if it had
13 been told to him or not.

14 Q. April 4 his access is removed, correct?

15 A. Okay.

16 Q. April 5th he's not told, correct?

17 April 6, 7, 8, 9, 10, 11, 12, 13, 14, nothing has been told
18 to him, correct?

19 A. I cannot --

20 Q. You don't know one way or another?

21 A. I can't immediately know what was told to him from that
22 time frame. I can't immediately recall any conversations that
23 management may have had with Mr. Schulte.

24 Q. May have had?

25 A. Had, may have had with Mr. Schulte at that point. I can't

K203SCH3

Small - Cross

1 recall that right here today sitting up on the stand.

2 Q. Okay. You're SIB, correct?

3 A. Yes.

4 Q. You're investigating whether or not he granted himself
5 access back on OSB libraries, correct?

6 A. That's one of the things we are looking at.

7 Q. You look at all of the e-mails provided to you by
8 management, correct?

9 A. Yeah.

10 Q. They are forwarded to you, correct?

11 A. Some are forwarded, yeah.

12 Q. In all the forwarded e-mails, you have no e-mails from
13 April 4 until April 14 that talk about his permissions being
14 revoked, correct?

15 A. Again --

16 Q. Just yes or no.

17 A. I can't recall, I can't recall what I had and what I had
18 looked through at that point during the investigation.

19 Q. Okay. Let's look at this document again. Okay. You see
20 at the bottom, you ask him what is the rationale that he had
21 for not going back and telling Mr. Weber, right -- blow that up
22 for him, please. You say why not circle back with them and
23 say, hey, has anything been done on that. You know, you ask
24 him all these questions, correct?

25 A. Yes, I do ask these questions.

K203SCH3

Small - Cross

1 Q. Can you tell me -- take that down, please. You can take
2 the exhibit down.

3 When you ask Mr. Schulte those questions, Mr. Schulte
4 does not think that Mr. Weber mistakenly took his access off,
5 correct?

6 A. I'm trying to recall what he said, if it was a mistake or
7 if he thought it was deliberate.

8 Q. Okay. By the way, at that time, Mr. Weber is not in
9 management, correct?

10 A. Mr. Weber was not -- he was not in Josh's management chain.

11 Q. Now, on your direct testimony, Mr. Denton asked you many,
12 many questions about a timeline, correct?

13 A. He did ask me timeline questions.

14 Q. And he asked you timeline questions, and you said it was
15 significant to you whether Mr. Schulte communicated with
16 management beforehand; do you recall that?

17 A. Yeah.

18 Q. Do you know, would it also be significant if management
19 communicated with him? Would that also be significant?

20 A. I guess it depends.

21 Q. It depends?

22 A. Yeah.

23 Q. Okay. So it's significant if Mr. Schulte does something
24 without management, correct?

25 A. Yeah.

K203SCH3

Small - Cross

1 Q. But it depends on whether or not Mr. Schulte does something
2 without management telling him what to do, correct? Is that
3 your testimony? That's fine if it is.

4 A. The last part of your -- you used a couple of negatives and
5 I was trying to figure out exactly what you were trying to say.
6 When you said "does it not," that confuses me.

7 Q. Sitting here today, as part of SIB, is it your testimony
8 that it is not as important if management has a timeline of
9 communication with its employees?

10 A. Management should have communication of timeline --
11 management should communicate with their employees, but -- I'll
12 wait for you to ask the question because there's more I'd like
13 to say.

14 Q. Let me show what you is the memo of warning issued to
15 Mr. Schulte, okay. Let's pull that up. You asked him
16 questions about the memo of warning, correct?

17 A. Yeah, I did.

18 Q. Right. And if you could just look at the bottom right
19 above his signature line. Mr. Schulte tells you that he did
20 not agree with portions of the memo of warning, correct?

21 A. Yes, there were portions he did not agree with at the time.

22 Q. And you tell him why did you sign it if it wasn't accurate,
23 correct? You ask him that question; do you remember that?

24 A. Yeah.

25 Q. He tells you why, right?

K203SCH3

Small - Cross

1 A. Yeah.

2 Q. Right. And what does he tell you?

3 A. I think he said something along the lines of like it's just
4 acknowledging that I had seen the e-mail, not necessarily --
5 that I had seen and read it, not necessarily that I agree with
6 it.

7 Q. Well, actually, Mr. Schulte tells you that management told
8 him to sign it because his signature does not indicate that he
9 agrees, merely that he has read and understands the above,
10 correct?

11 A. I don't remember the specific wording of what I said. That
12 was just the best of my recollection what I just said earlier.

13 Q. Okay. You asked him more questions about the memo of
14 warning, correct?

15 A. Yeah.

16 Q. Do you remember that?

17 A. I asked him questions about the memorandum of warning,
18 yeah.

19 Q. You asked him, correct, that -- you asked him whether going
20 forward in the future, he was going to abide by the memo of
21 warning, correct? Do you remember that?

22 A. I think so, yeah.

23 Q. Right. And when you asked him that question, he tells you
24 that, in his opinion, he had always abided by the rules,
25 correct?

K203SCH3

Small - Cross

1 A. I remember him saying that.

2 Q. And he explains to you, does he not, that until he
3 discovered on his own that his privileges were revoked,
4 management had never told him, correct?

5 A. I remember him saying that, yeah.

6 Q. He also tells you that Mr. Weber had never told him,
7 correct?

8 A. I remember him saying that, yeah.

9 Q. And he also tells you when he logs into OSB libraries on
10 April 14, in the beginning, he think it's just a bug that's
11 locked him out, correct?

12 A. I remember him saying that, yeah.

13 Q. Then he tells you that he looked inside the logs and saw
14 that Mr. Weber had thrown him off, correct?

15 A. Yeah.

16 Q. And then he goes and talks to Mr. Weber, correct?

17 A. Yeah. Well, yeah, he talked to Mr. Weber first.

18 Q. He tells you that he thinks Mr. Weber is not in his
19 management chain, correct?

20 A. Correct.

21 Q. In fact he's not in Mr. Schulte's management chain,
22 correct?

23 A. He is not in his management chain.

24 Q. He tells Mr. Weber, Mr. Weber had no business locking him
25 out, correct?

K203SCH3

Small - Cross

1 A. He tells -- you said he --

2 Q. Mr. Schulte.

3 A. Correct, yeah.

4 Q. And when you ask him about this memo of warning, he tells
5 you, does he not, that abiding by the memo of warning isn't a
6 problem for me. I felt like I didn't violate it to begin with
7 and I had no plan to violate it further. That's what he tells
8 you, correct?

9 A. I can't recall that specific language.

10 Q. Mr. Denton played you that snippet. We can put it up.
11 509-3 at page 18.

12 MS. SHROFF: Can you blow that up for him. One more
13 paragraph up.

14 Q. Then he tells you: It was not an issue for me, I mean,
15 like, it is an agency policy, right, so it's not something you
16 choose to not follow or follow, right.

17 He says that to you, correct?

18 A. Yes, he does.

19 Q. Then you talked to him more in your interview, do you not,
20 about the issue of access, correct? You continued talking to
21 him about access, right?

22 A. Yeah, if I recall.

23 MS. SHROFF: You can take that down.

24 Q. And he tells you, right, that all of this would have been a
25 non-issue if somebody had just told him that his access had

K203SCH3

Small - Cross

1 been removed, correct?

2 A. Yeah. I seem to recall that.

3 Q. Right. And he tells you, does he not, that they could have
4 just told him to remove his own access and doublechecked what
5 he did, correct?

6 A. I don't immediately recall the specific language that was
7 used.

8 Q. And then you asked Mr. Schulte, do you not, whether Karen
9 is under an obligation to say or tell him what her rationale is
10 for making a change in access. Do you remember that?

11 MS. SHROFF: Can somebody put up that testimony for
12 him. 509-9, page five. Right here at the bottom. If you
13 could from INT on, right here. There you go.

14 Q. And you say: Is she under obligation, is she under
15 obligation to say when, you know, her rationale for making a
16 change, right?

17 A. Yes.

18 Q. You see that question?

19 A. Yes.

20 Q. He corrects you, does he not. He says: No, I didn't say
21 rationale. She should tell me when she makes a decision
22 though, right? When a decision's been made, you should tell
23 the people involved in the decision. Otherwise, how do they
24 know, right?

25 A. I see him say that.

K203SCH3

Small - Cross

1 Q. And then you say: I guess maybe they find out when they
2 can't, you know, physically access, you know, Brutal Kangaroo
3 or what have you.

4 Right?

5 A. Yeah.

6 Q. So you think that the time for a person to find out they've
7 lost access is when they try to access the project or tool,
8 correct?

9 A. Rephrase your question?

10 Q. "I guess maybe they find out when they can't, you know,
11 physically access, you know, Brutal Kangaroo or what have you,
12 I mean, that's."

13 MS. SHROFF: Continue to the next portion of this
14 transcript, please, next page.

15 Q. That's when you find out, right, according to you?

16 A. That's -- I'm rephrasing his understanding. I'm sorry.
17 I'm having trouble following your question.

18 Q. Okay. Let's try it again.

19 A. Okay. I see what I said, the back and forth.

20 Q. Do you have the transcript in front of you?

21 A. Yes, I do.

22 Q. Mr. Schulte's telling you he doesn't need to know Karen's
23 rationale for taking him off, right?

24 A. Bear with me one moment. I have -- this is the second one,
25 so I don't know if I have it. Let me check for the second

K203SCH3

Small - Cross

1 interview.

2 MS. SHROFF: Ms. Hurst, can you help me out and put up
3 509-5 for him, page five and page six. Or does Mr. Denton end
4 there?

5 THE COURT: It ends at page five.

6 MS. SHROFF: Okay.

7 Q. So let's just stay with page five. You see where
8 Mr. Schulte is telling you that she should at least, she
9 should, he's not talking about her rationale for why she's
10 doing something. He agrees he is not entitled to know that.
11 Correct?

12 A. Yes.

13 Q. In fact, he corrects you. "No, I didn't say rationale,"
14 correct?

15 A. Yes.

16 Q. And he says to you but my boss should tell me, correct?

17 A. Yes.

18 Q. Right. And you say, and then he says to you, hey,
19 otherwise how does the person know, right?

20 A. I say, "I guess maybe they find out when they can't, you
21 know, physically access, you know, Brutal Kangaroo or what you
22 have you."

23 I mean, I don't know what else I said beyond this.

24 Q. Okay. But you don't tell him, yes, she should have told
25 you, right?

K203SCH3

Small - Cross

1 A. I don't say -- I do not say that.

2 Q. Right. You don't say management should have communicated
3 this to you, right?

4 A. No, I don't say that.

5 Q. You don't say to him, I'll find out why management didn't
6 communicate it to you, correct?

7 A. No, I did not say that.

8 Q. You don't even say, hey look, I've looked at the e-mails
9 between April 4 and April 14, and it was told to you, correct?

10 A. I did not ask that immediately after this, no.

11 MS. SHROFF: You can take that down.

12 Q. Let's talk about Brutal Kangaroo, okay. He sends out an
13 e-mail on May 26, right, about Brutal Kangaroo? Do you
14 remember that?

15 A. April 26 you said?

16 Q. Yes. Defense Exhibit I, he is going to use that one.
17 Right, you remember that?

18 A. Yes, I do.

19 Q. Right. This is what prompts his access request on Brutal
20 Kangaroo, correct?

21 A. Yes.

22 Q. And look, just like you suggested, he seems to have logged
23 in and he says "I seem to have lost access to this project,"
24 correct?

25 A. Yes.

K203SCH3

Small - Cross

1 Q. And he does not send this to some friend of his who is
2 working in infrastructure branch, right?

3 A. He sends it to a group address.

4 Q. It's not a clandestine e-mail, correct?

5 A. No, uh-uh.

6 Q. He is asking anyone, anyone give me admin access, right?

7 A. Yeah. To the group that took over the administrative.

8 Q. And he's very clear, he puts it in quotes what he wants.
9 "Could a Stash admin grant me 'admin' privileges for the
10 project Brutal Kangaroo." Right?

11 A. Yeah.

12 Q. "I seem to have lost access to this project," correct?

13 A. Yes.

14 Q. Okay. He gets a reply, correct?

15 A. Yes.

16 Q. He gets a reply from Dave, correct?

17 A. I'm not sure -- yeah. He gets a reply from David.

18 Q. Dave gives him access, correct?

19 A. Yeah, I am assuming David is the one that gave it to him or
20 he's, at least, David is the guy telling him that it was
21 completed. I don't know if David was the one who specifically
22 added the access.

23 Q. Here you go. Look on your screen then. It says here --

24 A. David is saying it's completed, but I don't know if someone
25 else on David's staff or a co-worker of David -- David is

K203SCH3

Small - Cross

1 communicating to Josh that, hey, your task is complete.

2 Q. And you asked Mr. Schulte about Brutal Kangaroo and
3 accesses, correct?

4 A. Yes, I did.

5 Q. Right. And you ask him did he by any chance investigate
6 who else was working on Brutal Kangaroo. You ask him that
7 question, do you remember that?

8 A. I think I recall that, yeah.

9 Q. And he says to you, I just assumed that I was still working
10 on Brutal Kangaroo, correct?

11 A. Yeah, I think I seem to recall that conversation.

12 Q. Right. Then you ask Mr. Schulte about why he wants access
13 and how he goes about getting his access back, correct? He
14 tells you, does he not, that in his mind it is very logical to
15 send out an e-mail asking for access, right?

16 A. I can't recall the specific language, but, you know.

17 MS. SHROFF: Can you put it up. It is the second
18 interview. 59. Here you go. Somebody can blow that up.

19 Q. "To my mind there is no issue for that at all. I don't
20 think that's breaking the policy because I'm not self-granting
21 me permissions," correct?

22 A. I see where he said that, yes.

23 Q. Is that accurate?

24 A. You mean, is this an accurate --

25 Q. Yes. Is Mr. Schulte being truthful to you?

K203SCH3

Small - Cross

1 A. Is he being truthful? Sorry. Can you rephrase your whole
2 question?

3 Are you asking if this verbatim statement was truthful
4 from the audio recording or are you asking --

5 Q. Is this a truthful statement to you by Mr. Schulte about
6 privileges on Brutal Kangaroo. Show him the e-mail again.
7 Let's try Defense Exhibit I again.

8 A. I'm sorry.

9 Q. Is he self-granting when he says could a Stash admin give
10 me privileges for Brutal Kangaroo?

11 A. Oh.

12 Q. Sorry?

13 A. He's sending the e-mail.

14 Q. So his statement that I showed you before is truthful. He
15 is not self-granting admin privileges, correct?

16 A. Yeah, he is -- according to that statement, he is -- yeah,
17 just sending the e-mail requesting.

18 Q. Right?

19 A. He's asking.

20 Q. Right. So the statement is truthful. He's not
21 self-granting privileges, correct?

22 MS. SHROFF: Show him the statement again.

23 A. But it wasn't with management though. So --

24 Q. I'm sorry. What did you say?

25 THE COURT: "It wasn't with management."

K203SCH3

Small - Cross

1 Q. It wasn't with management. Show me where management is
2 excluded from this e-mail chain.

3 A. I guess in the initial e-mail that Josh sent to the ISB
4 group.

5 Q. ISB group doesn't have management?

6 A. Well, I was saying Josh Schulte's management.

7 Q. You want passwords to be gotten from Josh Schulte's
8 management in May of 2016?

9 A. I haven't talked about passwords.

10 Q. This is May of 2016. Correct?

11 A. Yes. This e-mail that's up in front of the screen is from
12 May 26, 2016.

13 Q. By May 2016, haven't they made a big to do of moving all of
14 this from OSB to ISB?

15 A. That had been communicated, yeah.

16 Q. Right. And he's told to go to ISB, correct?

17 A. Yes.

18 Q. Right. So that's who he's going to, ISB, correct?

19 A. Yeah.

20 Q. So he is doing what he's told, right?

21 A. He's told to send an e-mail. He is talking to the group
22 that handles access.

23 Q. That's what he is supposed to do, no?

24 A. Okay.

25 Q. No, I am asking you. You are the one who mumbled

K203SCH3

Small - Cross

- 1 management.
- 2 A. Yeah, the access has to be coordinated with that group.
- 3 Q. What group?
- 4 A. Access requests have to be coordinated with ISB.
- 5 Q. Right.
- 6 A. Because they are the ones that are physically going to add
- 7 people at this point.
- 8 Q. That is the directive of management, ask ISB, correct?
- 9 A. If I recall correctly, yeah.
- 10 Q. Okay. Let's keep moving. He's given access by Dave,
- 11 correct?
- 12 A. Dave tells him it's been completed. Again, I don't know if
- 13 Dave was the one that specifically added it.
- 14 Q. Okay. You know what. Let's just pull up Dave's e-mail.
- 15 So your testimony is that e-mail is coming from Dave, correct?
- 16 A. Yes, an e-mail coming from Dave.
- 17 Q. It says it's completed, correct?
- 18 A. Yeah.
- 19 Q. But sitting here you are not sure if Dave is the one who
- 20 granted the access back?
- 21 A. Correct.
- 22 Q. Okay.
- 23 A. And the reason for that is because I don't know if Dave
- 24 tasked someone else to do it or if Dave did it himself, because
- 25 people sometimes will respond to e-mail, we as a team completed

K203SCH3

Small - Cross

1 it. Dave is vouching that, hey, my group got it. But I want
2 to be accurate here.

3 Q. Let's try and be accurate. There is nothing in this e-mail
4 that says: Completed. I asked somebody else to do this for me
5 and it's done. Correct?

6 A. Correct.

7 Q. Okay. Let's see the next e-mail that comes from Tim.
8 Correct? Tim replies at 1:15, correct?

9 A. I don't have that e-mail in front of me at the moment.

10 Q. Okay.

11 MS. SHROFF: Does somebody have that Tim e-mail where
12 he says please --

13 Q. Do you recall being shown a 1:15 e-mail from Tim saying
14 send me your branch chief's approval?

15 A. I recall there was another two people I guess from the same
16 group responded. One shortly thereafter the other. One saying
17 completed. The other one saying I need, give me your
18 management's approval.

19 MS. SHROFF: 1080, please.

20 Q. This is the one. Right?

21 A. Yeah, I recall that.

22 Q. Right? So, Mr. Dave has given him access?

23 A. Yes.

24 Q. Mr. Tim has says send me your branch chief's approval,
25 correct?

K203SCH3

Small - Cross

1 A. Yes.

2 Q. Okay. And then what does Mr. Schulte do to this e-mail,
3 does he reply?

4 A. I think --

5 Q. Let's scroll up. What does he say?

6 A. He says you can vet it with Anthony.

7 Q. Who is Anthony?

8 A. Anthony at that time, I think was --

9 Q. Was his branch supervisor?

10 A. Was his management chain.

11 Q. Oh wait, let's just stay there for a minute. Mr. Schulte
12 sends that e-mail to Anthony, right?

13 A. Let me see. Yeah, he included, yeah, he sent it to Anthony
14 and to Tim.

15 Q. Right. So everybody's on the same page, according to
16 Mr. Schulte, right? He doesn't keep Anthony off the e-mail
17 chain, correct?

18 A. Correct.

19 Q. He has this William guy copied, correct?

20 A. Yes.

21 Q. And he has Tim on the e-mail, correct?

22 A. Yes, he does.

23 Q. Okay. You can take that down.

24 Now, as part of your investigation, sir, is it fair to
25 say that you learned that there was an OEEO complaint filed by

K203SCH3

Small - Cross

1 Amol against Mr. Schulte?

2 A. I can't recall an OEEEO complaint from Amol being filed
3 against Mr. Schulte.

4 Q. Okay. So if you don't recall that, you won't recall that
5 it was unsubstantiated either, right?

6 A. I don't recall it. I can't immediately recall it. If I
7 had more detail, I don't know.

8 Q. You do recall that Mr. Schulte was given a polygraph right
9 after this time, correct?

10 A. Yeah, yeah.

11 Q. Right. And he was told that his time for a polygraph was
12 up, correct?

13 A. Yeah.

14 Q. Right?

15 A. I assume so.

16 Q. Right. And around that same time, you also knew that
17 Mr. Schulte was looking for a job outside of the CIA, correct?

18 A. Yes.

19 Q. Right. So you know two things now. This is somewhere
20 around August or September, right? That he's going to go for a
21 polygraph, and he's looking for an outside job, correct?

22 A. Yeah, if I recall correctly around that time frame.

23 Q. And this polygraph, was that arranged specifically by you?

24 A. No, not specifically by me, no.

25 Q. You spoke to Mr. Schulte's polygraph examiner though,

K203SCH3

Small - Cross

1 correct?

2 A. Yes, I did speak to his examiner.

3 Q. Right. You coordinated with him as to what the polygraph
4 examiner should ask Mr. Schulte, correct?

5 A. I -- not what they should ask, but I gave him the details
6 and background of my ongoing investigation at that time. But I
7 didn't, the specific questions, that's something that I did not
8 tell the polygrapher you need to ask this, you need to ask
9 that. That's not what I did. I just gave him the details of
10 my findings of my investigations at that point.

11 Q. By that point you didn't have findings. We're still in
12 September of 2016.

13 A. Findings up to that point, the facts that I had obtained,
14 yeah, I was still finding facts but I shared that with the
15 polygrapher.

16 Q. You didn't just share it, right? There was a purpose for
17 you sharing the information, correct?

18 A. Well, yeah. The purpose so that the polygrapher would have
19 an understanding.

20 Q. Just so that the polygrapher would have an understanding?

21 A. So the polygrapher could have understanding -- yeah.

22 Q. Nothing more. Just understanding?

23 A. Yeah, yes. I wanted the polygrapher to understand as much
24 as he could about the individual, the individual that you're
25 polygraphing. That's -- standard practice. They read the

K203SCH3

Small - Cross

1 security file before they polygraph the guy. They want to
2 know --

3 Q. It's standard practice for a polygrapher to take what you
4 are giving him, correct, and incorporate that into his
5 questioning, correct?

6 A. The -- questions -- I guess we are talking about polygraph,
7 I am a little -- I don't know what I can and cannot say
8 regarding questions on the polygraph. You know. That's
9 something --

10 Q. I am not asking you about questions on the polygraph.
11 Okay.

12 A. Okay.

13 Q. I'm really not.

14 A. Okay.

15 Q. I'm asking you, you had a purpose in sharing the
16 information with the polygraph examiner, correct?

17 A. Yeah, I wanted him to understand the facts and understand
18 as much about Josh and the details of my investigation up until
19 that point. Just so that he's aware of it.

20 Q. Okay. So you only wanted to make the polygraph examiner
21 aware, that's it?

22 A. Correct, yes.

23 Q. You did not have an expectation that the polygraph examiner
24 would question Mr. Schulte on those topics. You just wanted to
25 make him aware, correct?

K203SCH3

Small - Cross

1 A. I wanted to make him aware because if those topics are
2 discussed, he has background.

3 Q. So you expected him to talk about these topics, correct?

4 A. I wanted him to be prepared if that was the case.

5 Q. Okay. Now, when Mr. Schulte was contacted to schedule the
6 polygraph, he scheduled the polygraph, correct?

7 A. I'm not familiar with the nuances of polygraph scheduling,
8 who contacts who.

9 Q. The nuance thing again.

10 A. Yeah, I don't know if the polygraphers reach out directly
11 or if it's someone from the polygraph office. But that
12 scheduling is done outside my office.

13 Q. Okay. Even though the scheduling is done outside of your
14 office, Mr. Schulte e-mails you, does he not, in October and
15 says, hey, do I -- do you have or do you know if anyone has the
16 results of my polygraph, correct?

17 A. I can't immediately recall that e-mail.

18 Q. He tells you he is leaving the CIA, correct?

19 A. I remember him saying that he was -- or I was aware that at
20 that time he was looking at outside employment opportunities.

21 Q. He tells you, does he not, sir, that he wants to get that
22 clearance done because it makes him more marketable, correct?

23 A. I can't recall that but that -- having a clearance does
24 make one more marketable for employment.

25 Q. He keeps you apprised of his job search, does he not?

K203SCH3

Small - Cross

1 A. I can't recall what he communicated with me or the
2 granularity of what -- I knew he was searching, but I can't
3 recall what specifics he told me about his job search. How
4 well it was going or not well.

5 Q. And you, by the way, at that time, and since April, are
6 reading his e-mails, correct?

7 A. Yeah, I have read, yeah, I read e-mails that he had
8 forwarded to me that manage --

9 Q. No, that's not the e-mails I am talking about. I am
10 talking about you are contemporaneously reading his e-mails,
11 correct?

12 A. Say the word again?

13 Q. Contemporaneously reading his e-mails.

14 A. I'm unfamiliar with that word.

15 Q. That's all right.

16 THE COURT: As the e-mail was issued, did you read his
17 e-mails?

18 THE WITNESS: Not at the time, it would be after. It
19 wasn't -- it wasn't real time all the time, if that's what you
20 are --

21 Q. I didn't say it was real time all the time. I said you
22 were able to and did in fact read his e-mails in real time.
23 Correct?

24 A. I -- let me see. I would like to speak to the level of --
25 yeah, I'd like to have a sidebar.

K203SCH3

Small - Cross

1 THE COURT: You don't get a sidebar.

2 THE WITNESS: Okay.

3 THE COURT: Can you answer the question?

4 THE WITNESS: I apologize. The level of audit data
5 that one can attain, that's a closely held secret.

6 MR. DENTON: I think this is something that's okay for
7 the witness to answer.

8 A. Okay. Yeah, I did read -- I would read his -- I would read
9 his e-mails, yes.

10 Q. You would read his e-mails?

11 A. Yes.

12 Q. Then you'd Same Time with your friend about the stuff you
13 were reading in his e-mails, right?

14 A. I -- if for work purposes, yeah.

15 Q. No. Not for work purposes. I am talking to mock him.
16 When he looked up or does a Google search about Congress or
17 reporting to Congress, you Same Time chat with your friend Josh
18 L. and you say "Sweet. Now he's looking up Congress," right?

19 A. I can't recall that.

20 Q. Okay. And Josh L. Same Times you about Mr. Schulte,
21 calling him "your boy," correct? That's not professional,
22 right?

23 A. I can't recall the -- you know, that's the person I'm
24 investigating.

25 Q. I'm sorry?

K203SCH3

Small - Cross

1 A. If it was in the context of, hey, this is your boy, that
2 would be the guy I'm investigating.

3 Q. Ah. Okay. But it's fair to say you are reading all of
4 his -- you're reading his e-mails in real time when you want
5 to, correct?

6 A. I am reading some of his e-mails, not necessarily in real
7 time.

8 Q. Let's make this easy for you. You certainly have the
9 ability to read it in real time, correct?

10 A. I have the ability to read it.

11 Q. This will go a lot faster with a yes or no.

12 A. It's not real time. It's not real time.

13 Q. Does he know you're reading his e-mails?

14 A. All computer systems are audited.

15 Q. Not the question I asked.

16 A. Yeah, that I don't know.

17 Q. Did you tell him, hey, I am going to be reading your
18 e-mails from now on, I'm SIB?

19 A. No.

20 Q. Did you tell him, I am going to monitor your Same Time
21 chats, I'm SIB?

22 A. No.

23 Q. Did you tell him, I am going to audit and look at every
24 command you send, I'm SIB?

25 A. No.

K203SCH3

Small - Cross

1 Q. Okay.

2 A. No, we do not.

3 Q. Let me ask you something. Sitting here today, do you know
4 what a screenshot is?

5 A. Yes.

6 Q. How about a snapshot?

7 A. A snapshot it's like a portion of a screenshot I think.

8 Q. Okay.

9 A. If we're referring to the same.

10 Q. I don't know. I am just asking you what you know. A
11 snapshot is a portion of a screenshot. Okay.

12 How about a Bitbucket?

13 A. A Bitbucket, I can't -- I can't recall. It depends on the
14 context I guess.

15 Q. Okay. Do you know what a virtual machine is? What's a
16 virtual machine?

17 A. A virtual machine.

18 Q. Yeah.

19 A. One that operates virtual. It's not a physical machine.

20 Q. What's a vSphere?

21 A. I can't -- I can't recall what that is.

22 Q. Okay. What's a reversion?

23 A. I can't recall that either.

24 MS. SHROFF: I have nothing further, your Honor.

25 THE COURT: Mr. Denton.

K203SCH3

Small - Redirect

1 MR. DENTON: Thank you, your Honor.

2 REDIRECT EXAMINATION

3 BY MR. DENTON:

4 Q. Sir, do you remember Ms. Shroff asking you a number of
5 questions about your interviews of the defendant?

6 A. Yes.

7 Q. About how long were those interviews?

8 A. The interviews in total, I think it was probably eight or
9 nine hours with Josh specifically, and also she asked me about
10 Amol. And those were another three, four hours I guess with
11 Amol.

12 Q. About how long ago were those interviews?

13 A. These interviews would have been in the spring of 2016.
14 Spring, summer. So almost four years.

15 Q. You testified a number of times that you couldn't recall
16 the specific words that the defendant used when he spoke with
17 you, right?

18 A. Yes.

19 Q. Did Ms. Shroff play recordings of those interviews for you?

20 A. No.

21 Q. She asked you questions about whether the defendant knew
22 that the interviews were recorded; do you remember that?

23 A. Yes.

24 Q. Were you able to record the defendant without his consent?

25 A. No.

K203SCH3

Small - Redirect

1 Q. What did you do to get his consent?

2 A. At the beginning of the interview, make him sign this form
3 that the interview is being recorded for quality assurance
4 purposes. There is a document that they sign right at the
5 beginning when we bring the individual in.

6 Q. Ms. Shroff asked you a number of questions just generally
7 about things talked about in the interviews. Do you remember
8 that?

9 A. Yeah.

10 Q. She asked you about whether you had asked the defendant
11 questions about his personal safety?

12 A. Hmm-hmm.

13 Q. You talked about what the Threat Management Unit had done
14 at that point, right?

15 A. Yeah.

16 Q. Why didn't you ask the defendant questions about his
17 personal safety during your interviews with him?

18 A. Well, for some reason I think I did, you know, at some
19 point talk about his personal safety during one of those two
20 interviews for sure, because that was a primary focus. But
21 with TMU, their job is to manage the immediate, the immediate
22 threat. Like, is this going to happen right now. And they
23 make the determination how can we mitigate it, how can we make
24 people safe. It is the emergency-type situation. And TMU
25 walked away with, they -- that's their responsibility, to make

K203SCH3

Small - Redirect

1 sure it doesn't break out right then and there in the workplace
2 and how to mitigate that and make sure the work personnel is
3 physically safe.

4 Q. Had that process been completed by the time you interviewed
5 the defendant?

6 A. Yeah, they were done with their interviews and they had
7 sent me the information they had. Yeah, so it was complete. I
8 was unaware of any more work being done on TMU.

9 MR. DENTON: Ms. Hurst, can we put up Government
10 Exhibit 1062, please. Just blow up that top e-mail for a
11 second.

12 Q. Sir, do you remember Ms. Shroff showing you this e-mail?

13 A. Yes.

14 Q. She asked you a whole series of questions about a
15 deliberate command to server.

16 A. Yes.

17 Q. And about how access reinitiation works.

18 A. Yes.

19 Q. Do you remember asking the defendant how he went about
20 restoring his access during your interview with him?

21 A. Yes.

22 MR. DENTON: Ms. Hurst, can we put up Government
23 Exhibit 509-2-T and go to page five, and blow up lines 6 to 17.

24 Q. You see where you ask, "How did you go about restoring the
25 access, how does that work?"

K203SCH3

Small - Redirect

1 A. Yes.

2 Q. What did the defendant tell you about how he went about
3 restoring his access?

4 A. He said --

5 Q. Can you read that?

6 A. He said, "I mean, I'm just, I am the site administrator
7 over all, so access doesn't really apply to me essentially is
8 how it works. So, so I can get -- they go through and remove
9 my permissions from stuff, but I still have full permissions to
10 everything, right?"

11 Q. And what system is the defendant saying access doesn't
12 really apply to me on?

13 A. He's talking about the DevLAN system.

14 MR. DENTON: We can take that down. Thank you.

15 Q. Ms. Shroff also asked you a number of questions about how
16 the defendant was feeling during his interview. Do you
17 remember that?

18 A. Yeah.

19 Q. And you testified that he was angry and frustrated and
20 stressed, right?

21 A. Yes.

22 Q. She asked you questions about why you didn't ask him about
23 why he felt stressed. You remember that?

24 A. Yeah.

25 Q. Are you a therapist, sir?

K203SCH3

Small - Redirect

1 A. No.

2 Q. What was the point of your interview?

3 A. The point of my interview is to follow up on the
4 allegations of -- follow up -- it was regarding the death
5 threat. To follow up with that, and -- you talking about the
6 first interview or second interview?

7 Q. Let's start with the first interview.

8 A. Okay. All right. Yeah, the first interview is just to
9 understand the context with which the -- the alleged death
10 threat was made, because as it was presented to me from TMU,
11 you know, you had a he-said-he-had-said-type scenario. And we
12 didn't know what -- you know, what the truth was at this point.

13 Q. Let's talk a little bit about how the defendant was
14 feeling.

15 MR. DENTON: Ms. Hurst, can we put up Government
16 Exhibit 508-T.

17 Q. What was the date of your first interview with the
18 defendant?

19 A. My first interview was on April 8th. When we -- yeah.
20 April 8, 2016.

21 MR. DENTON: If we can go to page four, Ms. Hurst.
22 And blow up the block here at the top.

23 Q. Do you remember Ms. Shroff showing you this portion of your
24 interview with the defendant?

25 A. Yes.

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Small - Redirect

1 Q. And do you see where he says, "I feel like I've been, since
2 the onset when I was sat down with security, they told me this
3 wasn't a big deal, they don't have time to play high school
4 counselor. I feel like I've been unfairly punished and treated
5 by this, right."

6 Do you see that?

7 A. Yes.

8 Q. Was that one of the statements that made you think the
9 defendant was angry?

10 A. Yeah.

11 MR. DENTON: So, Ms. Hurst, can we take that down and
12 put up Government Exhibit 1052.

13 Q. Did you receive this e-mail?

14 A. From Josh -- yes.

15 Q. Did you receive it from the defendant?

16 A. Yes.

17 MR. DENTON: Can we go to page three, please,
18 Ms. Hurst.

19 Q. Who sent this e-mail here?

20 A. The e-mail right here, it's from Josh.

21 Q. What's the date of this e-mail?

22 A. Wednesday, March 2.

23 Q. What time is it at?

24 A. 5:27 p.m.

25 MR. DENTON: Can you blow up the second paragraph,

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Small - Redirect

1 Ms. Hurst.

2 MS. SHROFF: Your Honor, I think a juror is trying to
3 get your attention.

4 A JUROR: We can't see this. For the last few minutes
5 it just keeps going on and off.

6 THE COURT: What's the exhibit number?

7 MR. DENTON: 1052, your Honor.

8 THE COURT: Anybody have a copy?

9 MR. LAROCHE: Yes, your Honor.

10 THE COURT: Thank you.

11 MR. DENTON: Can everybody else see it?

12 MS. SHROFF: Mr. Denton, is this sent to Mr. Small?

13 MR. DENTON: Yes.

14 MS. SHROFF: Can you put that up?

15 MR. DENTON: We did. He said he received it.

16 MS. SHROFF: That's not what I asked you.

17 Q. What did the defendant say in this e-mail from March 2nd?

18 A. "I very much resent the fact that this issue is being
19 played off as a personal vendetta between two people. The
20 entire reason I didn't immediately go to security was because
21 it was mostly HR related and I thought it could be resolved
22 in-house."

23 MR. DENTON: Can you just zoom back out, Ms. Hurst.
24 If we can go up to page two of this exhibit and blow up the
25 e-mail there.

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Small - Redirect

1 Q. Who is this e-mail from?

2 A. This e-mail is from Dana, the ASO.

3 Q. Can you read the first sentence of the second paragraph.

4 A. "Regarding your comments about high school counselor, as I
5 mentioned to both of you, this kind of behavior (whether it is
6 in letter format, or alleged physical altercations in the
7 workplace) will not be tolerated in this work environment.
8 Once we receive the final investigative results of TMU, we will
9 stand ready to assist to ensure that this behavior -- no matter
10 who is responsible -- will not continue."

11 Q. What's the date of this e-mail, sir?

12 A. Thursday, March 3.

13 Q. Of what year?

14 A. 2016.

15 MR. DENTON: Ms. Hurst, can we put up Government
16 Exhibit 1207-30. Ms. Hurst, can we blow up the top five or six
17 lines there.

18 Q. Sir, do you see a file on this exhibit that was created on
19 the same date as the e-mail from Dana that we were just looking
20 at?

21 A. Yes.

22 Q. What's the date that file was last accessed?

23 A. So it would have been April 20th of 2016.

24 MR. DENTON: No further questions, your Honor.

25 THE COURT: You are excused. Thank you very much.

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Evanhec - Direct

1 (Witness excused)

2 THE COURT: Call your next witness.

3 MR. LAROCHE: Yes, your Honor. The government calls
4 Richard Evanhec.

5 THE DEPUTY CLERK: Please state your name.

6 THE WITNESS: Richard John Evanhec.

7 THE COURT: Mr. Laroche.

8 RICHARD JOHN EVANCHEC,

9 called as a witness by the Government,

10 having been duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. LAROCHE:

13 Q. Good afternoon, Mr. Evanhec.

14 A. Good afternoon, sir.

15 Q. Where do you work?

16 A. I'm currently an FBI agent assigned to the FBI
17 counterterrorism division.

18 Q. How long have you worked at the FBI?

19 A. Since 2004, so 16 years now.

20 Q. You said you are assigned to the counterterrorism division;
21 is that correct?

22 A. That is correct, sir.

23 Q. What's your current position?

24 A. I'm currently a supervisory special agent in the FBI's
25 counterterrorism division, and I am the unit chief of the

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1 executive staff unit. I essentially serves as the chief of
2 staff for the highest ranking official in the FBI who is in
3 charge with our nation's counterterrorism efforts.

4 Q. Generally, what are your responsibilities in that role?

5 A. So, I oversee, sir, a team of 10 people in direct support
6 of our assistant director and our three deputy assistant
7 directors. And I help as part of the counterterrorism
8 leadership team, I help manage our interactions with Congress,
9 I help manage our interactions with the press, I help manage
10 our interactions and activities with the National Security
11 Council, and I ensure the American people are aware of the
12 threat that counterterrorism presents to the United States.

13 Q. You said you worked for an assistant director; is that
14 correct?

15 A. That is correct, sir.

16 Q. Generally what is that assistant director's role within the
17 FBI?

18 A. Our assistant director is the FBI's highest-ranking
19 official who is in charge of ensuring that the FBI's
20 aggressively investigating terrorists operating here in the
21 United States, and ensure that the United States is overall
22 protected against terrorist attacks.

23 Q. Prior to working as chief of staff to the assistant
24 director, what position did you hold in the FBI?

25 A. Yes, sir. My most recent job prior to this one, I was a

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1 supervisory special agent in our international terrorism
2 operation section.

3 Q. Generally, what were your responsibilities in that role?

4 A. So in that role, I was responsible for overseeing at times
5 hundreds of counterterrorism investigations in our West Coast
6 of the United States.

7 Q. Prior to that position, what position did you hold in the
8 FBI?

9 A. I was a special agent here in the New York City field
10 office.

11 Q. I'd like to focus on that position for a moment. Were you
12 within a particular squad in the New York field office?

13 A. Yes, sir. I was specifically a part of the
14 counterintelligence division here in New York City. And
15 specifically my squad assignment was called CD-6,
16 counterintelligence squad 6.

17 Q. What does CD-6 do?

18 A. CD-6 specifically focuses on countering the unauthorized
19 disclosure of classified information here in the New York City
20 area.

21 Q. I want to turn your attention to March 7, 2017. Were you
22 working for CD-6 at that time?

23 A. Yes, sir, I was.

24 Q. Did you become involved in the investigation of the Vault 7
25 and Vault 8 leaks?

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1 A. Yes, sir, I did.

2 Q. What was your role in that investigation?

3 A. I became one of the lead case agents in the matter.

4 Q. What does it mean to be a case agent?

5 A. So as a case agent, you are the sworn law enforcement
6 officer who is responsible for the conduct of an investigation.
7 That includes making sure that there is a team of agents and
8 analysts and staff operations specialists that are aggressively
9 pursuing that investigation, ensuring that every possible piece
10 of evidence is collected in that investigation, with the
11 ultimate hope of either exonerating or clearing an individual
12 that the FBI may be investigating, or presenting that
13 information, as we did in this case, to the United States
14 attorney's office for prosecution.

15 Q. Were there other case agents involved in the Vault 7 and
16 Vault 8 investigation?

17 A. Yes, there were.

18 Q. Who?

19 A. Special Agent David Donaldson was one of my co-case agents.

20 Q. Looking around the courtroom today, do you see anyone who
21 you investigated as part of the Vault 7 and Vault 8 leaks?

22 A. I do.

23 Q. Who is that?

24 A. Joshua Schulte.

25 Q. As part of the investigation, did you interview the

1 defendant?

2 A. I did on multiple occasions, sir.

3 Q. How many times?

4 A. Four.

5 Q. During those interviews, did you ask the defendant
6 questions about his activities on DevLAN?

7 A. I did.

8 Q. What were some of the things the defendant told you about
9 those activities?

10 A. The defendant indicated that he was one of the individuals
11 responsible for building the actual DevLAN system. He was one
12 of the individuals responsible for deleting backups that
13 existed on the system. And that he was, you know, one of the
14 main individuals who ran the system on a daily basis.

15 Q. Did some of those interviews occur in March of 2017?

16 A. Yes, sir, they did.

17 Q. At the time of those interviews, were you aware of the
18 defendant's activities on DevLAN on April 20, 2016?

19 A. At the time of those interviews, I was not.

20 Q. Did the defendant tell you about those activities?

21 A. He did not disclose those activities at the time of our
22 interviews.

23 Q. As part of the -- did he disclose them at any time to you?

24 A. He did not, sir.

25 Q. As part of the investigation, were you also involved in the

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1 search of the defendant's apartment in New York City?

2 A. I was.

3 Q. What types of things did you find in that apartment?

4 A. Over the course of several hours' search of the defendant's
5 apartment in Manhattan, the FBI discovered classified
6 documents, internal documents from the CIA, and as well as a
7 treasure trove of computer evidence, including multiple
8 servers, hard drives, desktop computers; things like that, sir.

9 Q. Are you aware of an e-mail the defendant sent on his last
10 day employed at the Central Intelligence Agency?

11 A. I am, yes.

12 Q. Who did he send that e-mail to?

13 A. The Office of Inspector General or OIG.

14 Q. Prior to your search of the defendant's apartment, did you
15 ask the defendant whether he had a copy of that e-mail?

16 A. I did.

17 Q. What did he say?

18 A. He said that he did not maintain a copy in his residence.

19 Q. Did you find a copy in his residence?

20 A. We did.

21 Q. I want to come back to the interviews in more detail later,
22 but I want to focus for a moment on the investigation into the
23 Vault 7 and Vault 8 disclosures.

24 A. Yes, sir.

25 Q. When did that investigation begin?

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1 A. The investigation into the WikiLeaks disclosure began by
2 the FBI immediately upon learning of the leak.

3 Q. You said that your squad was involved in investigating the
4 leak; is that correct?

5 A. That is correct.

6 Q. Your squad is based in the New York field office?

7 A. At the time, yes, sir.

8 Q. Were any other field offices involved in this
9 investigation?

10 A. Yes, our Washington, D.C. field office became our partner
11 field office investigating this massive leak.

12 Q. Is it common to have multiple field offices involved in a
13 FBI investigation?

14 A. It certainly happens. Certainly in my new position in
15 counterterrorism, if, for example, a subject is unleashing,
16 using the mail system to send mail bombs to multiple cities, in
17 a situation like that we would have multiple cities involved in
18 an investigation. It's not ordinary, and certainly in this
19 case, the collaboration and cooperation between two of the
20 largest FBI field offices was almost unprecedented.

21 Q. Did the New York and Washington field offices work together
22 in this investigation?

23 A. Yes, we worked hand in hand daily.

24 Q. Generally speaking, what was the role of the New York field
25 office?

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1 A. So the New York field office specifically was focused on
2 investigating the activities of Mr. Schulte, and collecting
3 evidence related to those activities as they related directly
4 to the leak.

5 Q. What about the Washington field office?

6 A. Washington field office actually was the first office to
7 open investigation. As the CIA is physically located in
8 northern Virginia, they fall within the jurisdiction of our
9 Washington, D.C. field office. So the CIA, in this case we
10 would refer to as the victim agency. Since the victim agency
11 was in Washington field office's area of responsibility, they
12 became involved in the onset and they opened what we call an
13 unsub investigation. We knew a crime had been committed, we
14 didn't yet know who had committed it. So an unsub
15 investigation is an unknown subject who might be responsible
16 for this leak.

17 So Washington field office immediately opened that
18 investigation, and over the course of the subsequent months and
19 years, poured over a treasure trove of evidence collected from
20 the CIA, to ensure that there wasn't a hack into the system, to
21 ensure there wasn't a co-conspirator or someone else
22 Mr. Schulte was working with to do this crime, or there wasn't
23 somebody outside of Mr. Schulte all together who was involved
24 with this.

25 So Washington field office really had an enormous

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Evanhec - Direct

1 effort that they spearheaded to make sure that that unsub pool,
2 that pool of people that could have been responsible for this,
3 were investigated thoroughly.

4 (Continued on next page)

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Evanhec - Direct

1 MR. LAROCHE: Your Honor, I'm sorry. Can we take a
2 brief break? I think a juror needs to use the bathroom.

3 THE COURT: OK. We'll take a brief break.

4 MR. LAROCHE: Thank you, your Honor.

5 (Jury not present)

6 THE COURT: We'll take ten minutes.

7 (Recess)

8 (Jury present)

9 THE COURT: Please be seated.

10 Mr. Laroche.

11 MR. LAROCHE: Thank you, your Honor.

12 Q. Mr. Evanhec, before the break, we were talking about the
13 roles of the New York field office versus the Washington field
14 office, is that correct?

15 A. Yes, sir.

16 Q. I know your role in the New York field office was
17 principally to investigate the defendant. Is that correct?

18 A. Yes, sir, that's correct.

19 Q. And the Washington field office was considering the broader
20 unsub pool, is that right?

21 A. That's correct, sir.

22 Q. Just generally, what an unsub pool?

23 A. An unsub pool, in this case, is consideration of all of the
24 possible options, including person, that could have been
25 responsible for -- for stealing the CIA's information. There

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Evanhec - Direct

1 were a number of things that our Washington field office
2 considered when determining what the subject pool was; for
3 example, who were the number of people, what was the population
4 of people that had access to the data that was released?

5 MR. BRANDEN: Judge, I'll object to this witness's
6 knowledge about the Washington field office's work.

7 THE COURT: Objection overruled.

8 MR. LAROCHE: Thank you.

9 A. So, they considered over 20 releases that WikiLeaks made in
10 this case over the course of six months to determine where the
11 information actually came from, from the CIA, which ultimately
12 determined to be the DevLAN system. They assessed who the
13 individuals were that were present in the office at the time
14 the information was stolen. So they considered a number of
15 factors to determine what is the totality of the population
16 that could have been responsible for this investigation? So
17 that's where the Washington field office really focused an
18 enormous amount of resources to determine.

19 Q. Now, you said that the field offices worked together on
20 this investigation, is that correct?

21 A. They sure did, sir.

22 Q. How did they do that?

23 A. Ultimately, the Washington field office and New York field
24 office joined forces at the Center for Cyber Intelligence in
25 Virginia. We co-located our efforts in our laboratory in that

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1 building, so there were 25 to 30 seats in, in that -- in that
2 space. They were occupied by more than 10 agents and analysts
3 from the New York office and more than 10 analysts and agents
4 from the Washington field office as well as a number of CIA
5 employees who ultimately assisted us in the investigation.

6 There were, at the early days of the investigation,
7 meetings twice a day between the New York office and Washington
8 field office to compare information that we had learned and to
9 determine who was going to be interviewed and when and to
10 ensure overall that the efforts were really done with one
11 direction moving forward, and they were coordinated
12 exhaustively every step of the way.

13 Q. Did the FBI also coordinate with the CIA?

14 A. We did.

15 Q. Why?

16 A. The CIA was the victim agency. The FBI has obligations to
17 victims in all of our cases. Victims are often the very best
18 witnesses to crimes, so in this case we needed to rely on the
19 CIA as a victim for a number of reasons.

20 One, they had access to the people that we need to
21 interview. You know, there were hundreds of interviews that
22 occurred in this investigation with current and former CIA
23 employees, with our contractors, and they were needed to give
24 us access to those people.

25 We also needed CIA in the very early stages of the

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Evanchech - Direct

1 investigation to help us understand what the DevLAN system was.
2 We needed experts who knew that system in and out to really
3 provide us information on this. So it was really a logistical
4 role they provided, but also, in the beginning they were kind
5 of consultants before the FBI really got up and running and
6 took the investigation on our own.

7 Q. Were there times when you requested information from the
8 CIA?

9 A. There were daily requests that I personally made to the
10 CIA.

11 Q. Did they respond to those requests?

12 A. I am not aware of an instance of the CIA not providing
13 information that I asked for. I will caveat that. There were
14 times, sir, that I asked the CIA for -- for something, for
15 example, video footage back from the time this attack occurred,
16 and that was an instance where that video footage no longer
17 existed. So they responded to every request, from my
18 recollection, that I made, and in most of the time, it was a
19 very robust and timely response to the exact request that we
20 made.

21 Q. Now, did the CIA oversee your investigation?

22 A. In no way.

23 Q. Did they tell you who to investigate?

24 A. They provided information in the very beginning about an
25 individual who had manipulated the DevLAN system who left on

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Evanhec - Direct

1 very bad terms. But they at no way, shape, or form told us who
2 we could and could not investigate in this case.

3 Q. And who is that individual you're referring to?

4 A. Josh Schulte.

5 Q. Did they tell you only to investigate the defendant?

6 A. Never.

7 Q. Why not?

8 A. One, it would have been inappropriate for them to do that.

9 Two, I think, much like the FBI, they really wanted to
10 understand the truth of what happened in this case. I had
11 interviews with the top-level brass at the CIA who personally
12 expressed that to me. The CIA wasn't interested in hiding
13 this. They could have hid this from day 1 and not cooperated
14 with the FBI.

15 MR. BRANDEN: Objection, Judge, to what the CIA might
16 have thought.

17 THE COURT: All right. Overruled.

18 Q. You can finish.

19 THE COURT: Go ahead.

20 THE WITNESS: Yup.

21 A. I recall specific conversations with the director of the
22 CCI, who assured me that if I ever came to a roadblock in this
23 investigation, where the CIA wasn't cooperating, they'd be
24 personally engaged to make sure that hurdle was overcome.

25 Q. Did the CIA have any role in determining the course of your

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Evanhec - Direct

1 investigation?

2 A. No. In most cases they were unaware of the actual
3 investigative activities the FBI conducted.

4 Q. Now, I'd like to talk for a moment about some of the
5 resources that were devoted by the FBI to this case, and I
6 think you referenced some of that a second ago. Just from the
7 New York field office alone, how many agents what assigned to
8 investigate this case?

9 A. So, at the time, sir, I believe our squad here in New York
10 had between six and eight agents; had a number of analysts in a
11 number of what we call staff operation specialists. They're
12 tactical analysts, essentially. That entire squad was
13 mobilized in this case.

14 Actually, the end, our squad alone was not enough to, to
15 understand this evidence. I personally recruited one of the
16 best agents I know to be my right-hand man down at the CCI. We
17 brought in a number of other agents from other squads that
18 ultimately became involved in a very robust and thorough and
19 exhaustive review of evidence.

20 Q. What about the Washington field office?

21 A. Washington field office, our sister squad down in
22 Washington, who also handles espionage matters, similarly
23 activated, at times, their entire squad of anywhere from eight
24 to 12 agents. They also tapped into other resources at the
25 Washington field office. That's just from an investigator

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Evanchech - Direct

1 agent-collecting-evidence side.

2 In addition to that, the Washington field office, there's a
3 squad that is -- it specializes in the seizure and processing
4 of computer media. That entire squad also, for a number of
5 weeks, or large portions of that squad, became directly engaged
6 in the seizure and the securing of thousands of pieces of
7 evidence that were ultimately recovered at the CIA.

8 Q. And what's that squad called?

9 A. It's called the -- it was called the CART squad. I believe
10 it's computer analysis response team, or something similar to
11 that. I'm not quite sure.

12 Q. And were there computer scientists that participated in
13 this investigation from the FBI?

14 A. Yes, sir. In addition to the resources from the New York
15 office and the Washington field office, we also asked that the
16 FBI's cyber division provide a number of computer scientists to
17 help us ultimately examine, in this case, specifically if there
18 was a hack or if there was a foreign nation who may have
19 some -- somehow got into the system and, you know, inserted
20 malware that somehow made its way to the system. So we also
21 brought in some very, very skillful people that knew how to do
22 just that.

23 Q. Did those working the investigation work 40 hour workweeks?

24 A. No.

25 Q. What was it like to work on this case immediately after the

K2oWsch4

Evanchech - Direct

1 March 7, 2017, leak happened?

2 A. I recall being at the CIA offices until two, 3:00 in the
3 morning at the early stage of this investigation, writing
4 warrants for the subject. There were times when we got the
5 results of search warrants, when our squad, the remainder of
6 which were in New York were called in to the office at three or
7 4:00 in the morning to pore over the results of Google, that
8 Google had provided to us. This wasn't a 40-hour workweek.
9 These weren't 60-hour workweeks. They were 24 hours a day,
10 literally 24 hours a day, seven days a week in the early stages
11 of this investigation.

12 Q. After the initial leak, did the FBI learn that the
13 information disclosed was from the CIA's computer system
14 DevLAN?

15 A. Yes, sir.

16 Q. Did you also learn that DevLAN was a network that was
17 principally located within an office building CCI that you
18 referred to?

19 A. Yes, sir, I did.

20 Q. Based on that information, did the FBI seize electronic
21 equipment?

22 A. Yes.

23 Q. What did they seize?

24 A. The FBI seized every possible piece of digital media that
25 could have conceivably been connected to the DevLAN system.

K2oWsch4

Evanhec - Direct

1 That included servers. That included desktop computers. That
2 included hard drives. That included thumb drives. There were
3 over a thousand pieces of digital media that the FBI seized
4 from the CCI offices in Virginia.

5 Q. Why did you seize electronic devices that were connected in
6 some way to DevLAN?

7 A. We wanted to consider, possess and analyze every possible
8 piece of evidence that could point us in the direction of who
9 committed this crime, and it was necessary for us to seize
10 that, to safeguard it and to process it to meet that exact end.

11 Q. Did you also learn that DevLAN was accessible from certain
12 foreign CIA bases?

13 A. Yes, sir, I did.

14 Q. I'm going to refer to those as Foreign Office West and
15 Foreign Office East.

16 A. Yes, sir.

17 Q. Did the FBI seize any equipment from those bases?

18 A. We seize those items that were pertinent to the DevLAN
19 network from both locations.

20 Q. Did you also learn about an offsite CIA source facility?

21 A. We did.

22 Q. With respect to DevLAN, how was that facility used?

23 A. That was -- there was an offsite backup to the DevLAN
24 system, and that was basically maintained in the event that
25 there was some physical -- there was a fire or a flood at the

K2oWsch4

Evanhec - Direct

1 CCI building. In that event, you know, it would potentially be
2 catastrophic and the CIA would lose all of their tools, so they
3 actually made extraordinary efforts to ensure that there was
4 actually a site away from that building that could maintain a
5 backup that was relatively updated in the event there was a
6 total loss at the CCI building.

7 Q. And did the FBI seize anything from that facility?

8 A. Yes, sir, the servers.

9 Q. What did it seize?

10 A. The servers.

11 Q. In total, approximately how many devices were seized as far
12 as the investigation?

13 A. In the CIA offices alone, over a thousand.

14 Q. And how much data, approximately, was contained on those
15 devices?

16 A. My understanding is it was 1.4 petabytes of data.

17 Q. Just generally speaking, what is a petabyte?

18 A. My understanding is if we were to put a camera in this
19 courtroom and record, at high definition, 24 hours a day seven
20 days a week, that would be one petabyte. We had in this case
21 over 1.4 petabytes.

22 Q. After the devices connected to DevLAN were seized, were
23 they transported to FBI field offices?

24 A. They were not.

25 Q. Why didn't you transport them to FBI offices?

K2oWsch4

Evanhec - Direct

1 A. Two -- two main reasons that we did not transport the
2 evidence to FBI offices, as we normally would. One is the size
3 of the data. The FBI did not have systems in place that could
4 properly and efficiently review 1.4 petabytes of information.

5 Secondly, we did not possess the ability to review that
6 classification level of evidence in the FBI field office. So
7 for that reason, the FBI took control of storage rooms at the
8 CIA where we, where we secured that evidence through the
9 duration of the investigation.

10 Q. And how was it secured?

11 A. It was in a SCIF. It was in a vault in the CIA offices.
12 The accesses to that room were changed to only permit our
13 agents and CART examiners from the Washington field office's
14 access to that. And my understanding, there were a very
15 limited number of CIA police officers and facilities'
16 individuals who could code also code into that room. My
17 understanding is that the Washington field office, from my
18 conversations with them, conducted routine audits of who
19 actually accessed that room via the badge reader and PIN that
20 would have been required ultimately to gain access to it.

21 Q. After the devices were all seized, were they examined?

22 A. They were.

23 Q. And where did that examination happen?

24 A. That examination occurred in the joint New York field
25 office, FBI field office laboratory in the CIA building.

K2oWsch4

Evanhec - Direct

1 Q. And who participated in that investigation?

2 A. That, again, were agents from the New York field office and
3 analysts from the New York field office; agents and analysts
4 from the Washington, D.C. field office; our computer scientists
5 from our cyber division. There was actually a number of CART
6 examiners who also showed up from New York and a number of CIA
7 consultants that we brought on board to help.

8 Q. Why did you have CIA involved to help?

9 A. Because, again, the CIA knew the system better than anyone,
10 could help us understand how it was set up, and they basically
11 taught us, in the early days, what this system was and what it
12 meant, so they were very, very, very important, actually, in
13 the very beginning days of the investigation here.

14 Q. How did you prioritize reviewing those devices?

15 A. Mr. Schulte -- we talked moments ago about the subject
16 pool, and ultimately, as the FBI understood this investigation,
17 we learned that because of where it came from in the DevLAN
18 system, that it was most likely -- and ultimately, it was -- a
19 systems administrator. It was at a place that would require a
20 systems-administrator level of access to access. So in the
21 very early days of the investigation, we focused predominantly
22 on who we understood to be the systems administrators for the
23 DevLAN system, and those became the focus early on.

24 We ultimately reviewed every user's machine, but priority
25 was definitely placed on the systems administrators.

K2oWsch4

Evanhec - Direct

1 Q. And I think you just said that you also reviewed the
2 nonsystem administrators' machines, is that correct?

3 A. That's correct.

4 Q. Why did you do that?

5 A. It was really out of an abundance of caution. We knew that
6 a normal, everyday user of DevLAN wouldn't have had the
7 accesses to get where they needed to get in the DevLAN system
8 or in the backup to steal this data. But we had an obligation
9 to review their equipment. We just wanted to make sure that
10 there wasn't some anomaly that we were unaware of or that there
11 wasn't somebody else who was communicating in a way about the
12 theft or whatnot. So it was very important that, you know, we
13 focused on who we knew was the closest circle to who could have
14 done it, but we wanted to make sure that we had an exhaustive
15 investigation, and therefore, we reviewed everything.

16 Q. Other than reviewing computer data, did the FBI conduct
17 interviews as part of its investigation?

18 A. We did. There were hundreds of interviews the FBI
19 conducted in this case.

20 Q. And who was interviewed?

21 A. An attempt was made to interview every user of the DevLAN
22 system at the time the information was thought to have been
23 taken. Multiple people in that, in that pool were interviewed
24 on multiple times. There were also multiple interviews over
25 the course of months with the systems administrators;

K2oWsch4

Evanchech - Direct

1 witnesses, people that knew Mr. Schulte out -- inside and
2 outside the CIA were also interviewed as part of the
3 investigation.

4 Q. Other than reviewing the forensics and conducting
5 interviews, what other steps did you take as part of the
6 investigation?

7 A. So, we obtained, on multiple occasions, federal search
8 warrants that would permit us to access the defendant's home,
9 some of his accounts that he maintained. We submitted hundreds
10 of grand jury subpoenas for evidence about the defendant. We
11 had recruited a number and worked with a number of human
12 sources, people that knew the defendant well who could help
13 guide the FBI in our investigation and could really help give
14 us an understanding of what his daily activities were after,
15 after the release. So we did a number of things that the FBI
16 would normally and logically do in a case like this. We also
17 had him under surveillance many, many days after the leak.

18 Q. Now, I'd like to talk for a moment about how the
19 investigation proceeded.

20 A. Yes.

21 Q. Were you in the courtroom for the testimony of Mr. Leedom?

22 A. I was.

23 Q. And did you hear him being asked questions about whether
24 there was only one suspect in the investigation?

25 A. Yes.

1 Q. Was the defendant the only suspect at the outset of this
2 investigation?

3 A. The defendant was in the beginning and remained through
4 today the only individual subject of this investigation.

5 I talked before about the subject pool, of the
6 extraordinary effort that was made to make sure that those
7 other people were investigated and looked at. Mr. Schulte was
8 at the beginning and remained the only suspect.

9 Q. And you said unsub pool a few times. Did part of the FBI's
10 strategy in investigating this case involve identifying the
11 unsub pool?

12 A. It did.

13 Q. Why was that important?

14 A. As I mentioned before, we didn't want to limit ourselves,
15 put blinders on, in assuming that Josh Schulte was responsible
16 for this in the early stages of investigation. We had to
17 determine the entirety of those who could have possibly had
18 access to the system. We cast a very, very, very broad net in
19 that to include ultimately everyone who used the system.

20 Again, as I mentioned before, we didn't believe that a user
21 would have had the privileges or accesses to get where they
22 needed to get to steal this information, but we couldn't rule
23 them out and we didn't rule them out, and we looked at
24 everything that was there just to make sure that we were on the
25 right track.

K2oWsch4

Evanchech - Direct

1 Q. Were there times as part of the investigation when you
2 obtained information that led you to investigate other
3 individuals?

4 A. Yes.

5 Q. I want to talk about just a few examples. You stated that
6 the unsub pool included people that had DevLAN access, is that
7 correct?

8 A. That's correct, sir.

9 Q. Did the FBI also investigate whether there was a foreign
10 intrusion of DevLAN?

11 A. We did.

12 Q. And just generally, what is a foreign intrusion?

13 A. A foreign intrusion, frankly, is an outside actor. Think
14 of a nation, think of a terrorist organization that might have
15 somehow been able to penetrate this closed system in such a way
16 or put malware on it or otherwise, you know, penetrate it in a
17 digital way that would cause harm to the system. And when I
18 mentioned before that we had worked with our cyber division, we
19 had two computer scientists that were ultimately assigned to
20 review the DevLAN system and rule that out as a possibility,
21 which ultimately, in the end, it was.

22 Q. Were you here for the testimony of David, one of the system
23 administrators?

24 A. For a portion, yes.

25 Q. Were you here for the portion where he testified about a

K2oWsch4

Evanchech - Direct

1 Stash backup that was stored?

2 A. I was.

3 Q. Did the FBI discover that as part of their investigation?

4 A. Yup. The FBI had discovered that forensic piece of
5 evidence.

6 Q. Did you take steps to investigate that as part of your
7 investigation?

8 A. We did.

9 Q. What did you do?

10 A. We confronted him in an interview about it. We
11 specifically tasked that, made the team aware that was looking
12 at his media of that fact to make sure that as they did one of
13 those enhanced reviews or deep dives of his forensics that was
14 known and looked at and explored to make sure there wasn't
15 anything nefarious to it.

16 Q. And were you also here for the testimony of Michael?

17 A. Yes, sir, I was.

18 Q. Do you recall a screenshot that Michael had taken of his
19 screen on April 20, 2016?

20 A. Yes, sir, I do.

21 Q. Did the FBI discover that screenshot?

22 A. We did as part of that investigation, yes.

23 Q. Did they take steps to address it?

24 A. Again, similarly, upon uncovering that piece of evidence,
25 it was, again, a reason for us to do one of those enhanced,

K2oWsch4

Evanhec - Direct

1 deep-dive reviews of his digital media and also became a very
2 confrontational interview with him where we asked him to
3 explain exactly why he would have something like that, that
4 screenshot, saved on his computer.

5 Q. Did you end up opening an investigation into Michael?

6 A. We did not.

7 Q. Why not?

8 A. We were never able to predicate an FBI investigation on
9 him.

10 Q. What does that mean?

11 A. In the FBI you have to have specific and articulable facts
12 to open a new investigation on someone. The facts and
13 circumstances and information that we possessed on Michael
14 never rose to the level that we could open a case on him.

15 Q. You talked a lot about April 20 of 2016 as being an
16 important date in the investigation, is that correct?

17 A. That is correct.

18 Q. Did you steps to determine who was even in the office on
19 April 20, 2016, during the relevant time frame?

20 A. I did.

21 Q. How did you do that?

22 A. So, the specific time frame that was of interest to us was
23 5:35 p.m. to 6:51 p.m. That was when the system was in a state
24 of reversion, and that was kind of a late hour for most of the
25 CCI employees. So I went through the logs of others that were

K2oWsch4

Evanhec - Direct

1 priority suspects or individuals that we were curious about and
2 couldn't open a case on, and we looked at those logs and saw
3 who was in the office at that time.

4 Q. Did that include reviewing logs of system administrators?

5 A. It did.

6 Q. What did your review find?

7 A. That the systems administrators, although they may have
8 been in the office at the beginning of that there reversion
9 were not there by 6:51 p.m., when the reversion was completed.

10 Q. Now, early in the investigation, you stated that there was
11 a focus on the defendant, is that correct?

12 A. That's correct.

13 Q. What are some of the reasons you focused on the defendant
14 early in the investigation?

15 A. We had learned early in the investigation that the
16 defendant had a history of manipulating or using in nefarious
17 way the DevLAN system. We had learned that he experienced
18 significant personnel issues at the CIA, and you know, as we
19 were working the investigation, we learned that within a week's
20 time he was planning to travel, for the second time in his
21 life, outside the United States. So there were many factors
22 that made the FBI able to open an individual case on him.

23 Q. Why were those factors you considered in focusing on the
24 defendant?

25 A. It certainly speaks to a willingness to violate CIA policy,

K2oWsch4

Evanchech - Direct

1 a willingness to manipulate data, a motivation for why someone
2 would do something. Certainly the travel outside of the United
3 States -- again, for the second time in his life -- was very
4 alerting, obviously something the FBI was concerned about.

5 MR. LAROCHE: If we could pull up Government Exhibit
6 1034, please.

7 Q. Do you recognize this email, sir?

8 A. I am.

9 Q. Did you review this as part of your investigation?

10 A. I did.

11 MR. LAROCHE: If we can go to page 6 of this, please.

12 Q. Just on the top email, when was this sent?

13 A. Tuesday, March 1, 2016.

14 Q. Just generally, what was the defendant saying in this
15 email?

16 A. This is an email where the defendant suggests that one of
17 his coworkers, Amol, had made a number of threats against his
18 life.

19 MR. LAROCHE: If we can go back to the first page,
20 please, and just focus on the bottom email.

21 Q. Sir, can you read the first two sentences of that email?

22 A. "I wish to address a few issues with the original write-up.
23 I'm sure this will be discussed with the investigator, but
24 regardless, this issue had nothing to do with any and all HR
25 complaints against Amol."

K2oWsch4

Evanchec - Direct

1 Q. And then do you see at the bottom of this, there is a
2 paragraph starting, "This is a very serious concern"?

3 A. Yes.

4 Q. Can you read that paragraph, please?

5 A. "This is a very serious concern for me, and I don't really
6 appreciate your insinuation during our meeting that you are
7 simply functioning as a high school counselor and have better
8 things to do. If I believe my concerns are not being taken
9 seriously, I will report Amol's threats directly to the police
10 along with this documentation so that perhaps they will
11 properly assist me."

12 Q. You said this was one of the emails you reviewed early in
13 the investigation, is that correct?

14 A. That's correct.

15 Q. How, if at all, did it impact your investigation?

16 A. It showed someone who was so unable to conduct himself in a
17 productive and meaningful way in the office that he needed to
18 threaten calling the police inside a government office space. It
19 was, it was concerning to me.

20 MR. LAROCHE: Let's go to Government Exhibit 1095.

21 Q. Do you recognize this exhibit?

22 A. I do.

23 Q. Was this one of the things you reviewed as part of your
24 investigation early on?

25 A. Yes, sir, it was.

K2oWsch4

Evanchech - Direct

1 MR. LAROCHE: If we can zoom in on that last
2 paragraph.

3 Q. Was this memorandum -- did this memorandum have any impact
4 on your investigation?

5 A. It did.

6 Q. How, if at all, did it impact your investigation?

7 A. Again, it showed that this defendant had a history of
8 manipulating the system and creating accesses that he should
9 not have had.

10 MR. LAROCHE: Let's go to Government Exhibit 1119,
11 please.

12 Q. Do you recognize this email?

13 A. I do.

14 Q. What's the date of this email?

15 A. November 10, 2016.

16 Q. Was this the defendant's last day at the agency?

17 A. It was.

18 Q. Did you review this as part of your investigation?

19 A. I did.

20 MR. LAROCHE: Let's zoom in on the second paragraph,
21 please.

22 Q. Can you please read that?

23 A. "I am resigning from the CIA because of deep injustices and
24 illegal behavior by multiple SIS officers. They ignored the
25 issues that I raised about security concerns and attempted to

K2oWsch4

Evanhec - Direct

1 conceal these practices from senior leadership. They
2 retaliated against me when I contacted security. They lied and
3 mishandled classified to up-classify documents that could be
4 used as evidence against them, and they directly targeted me to
5 destroy my agency career and prevent me from promotion. Every
6 security report was met with disdain from SIS officers
7 employing the 'ignore the problem until it goes away'
8 technique.

9 Q. How, if at all, did this impact your investigation?

10 A. It shows someone who, in his words, felt subject of deep
11 injustices and illegal behavior. It certainly would have been
12 a motivation to do something in retaliation to the CIA.

13 THE COURT: Mr. Laroche, would this be a convenient
14 place to break?

15 MR. LAROCHE: Yes, your Honor.

16 THE COURT: We'll break now and resume at 1:45.

17 (Jury not present)

18 THE COURT: OK. See you at 1:45. You can stretch
19 your legs.

20 THE WITNESS: OK. Thank you.

21 (Luncheon recess)

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AFTERNOON SESSION

1:45 p.m.

(Jury present)

THE COURT: Mr. Laroche.

MR. LAROCHE: Thank you, your Honor.

Ms. Hurst, if we can go back to Government Exhibit 1119, please. If we can just zoom in on the paragraph starting "specifically."

Q. See about midway down there a sentence that starts "for two full years."

A. Yes, sir.

Q. Can you read that, please, just that sentence.

A. "For two full years I reported through my management chain these security concerns."

Q. As part of the investigation, did you review the defendant's e-mails?

A. Yes, sir.

Q. Did you also review some of his chat messages?

A. I did.

Q. Did you identify any e-mails or chat messages in which he raises security concerns about DevLAN with management?

A. Not prior to this e-mail, sir.

MR. LAROCHE: We can pull that down.

Q. We just went through a few of the things that you reviewed as part of the investigation early on; is that correct?

K203SCH5

Evanchech - Direct

1 A. That's correct.

2 Q. I think you said earlier that early in the investigation,
3 you learned that the defendant was traveling or planning to
4 travel?

5 A. That's correct.

6 Q. Where was he planning to travel to?

7 A. To Cancun, Mexico.

8 Q. When was the defendant scheduled to travel?

9 A. He was scheduled to depart on March 16, 2017.

10 Q. How, if at all, did that impact your investigation?

11 A. It accelerated our need to quickly understand what this
12 defendant had done, and what his intentions were in traveling
13 to Cancun. As I said earlier, it was only the second time in
14 his life that he left the United States. And certainly his
15 departure this close to the WikiLeaks release was of concern to
16 us, and necessitated that we escalate our investigation and
17 look into other ways to find out why he was traveling.

18 Q. What did you do as a result of that?

19 A. As a result of that, we had planned and actually ended up
20 interviewing the subject Mr. Schulte.

21 Q. Did there also come a time when you obtained a search
22 warrant?

23 A. There did.

24 Q. Just generally speaking, what is a search warrant?

25 A. A search warrant is an investigative tool that the FBI

K203SCH5

Evanchech - Direct

1 uses. Obviously, one of the ways we investigate is to collect
2 evidence. In the course of those investigations, when the FBI
3 is able to meet certain legal burdens, probable cause, we write
4 a document that we submit to a federal magistrate judge, a
5 neutral and detached party. We outline for that judge the
6 facts and circumstances of what we know at that time, we put
7 those on paper, and we request permission to execute a search
8 warrant of this case, the subject's residence. And in this
9 instance, the magistrate judge authorized to search the
10 subject's residence.

11 Q. At the time you obtained that initial search warrant, how
12 many disclosures of classified information had WikiLeaks made?

13 A. Just one. The first, sir.

14 Q. At the point that you submitted the search warrant, had the
15 FBI made a preliminary assessment as to the date of that data?

16 A. We had.

17 Q. What was that assessment?

18 A. Between March 7 and 8, at that time.

19 Q. What was that assessment based on at the time?

20 A. So, with the help of the agency, there was a very
21 preliminary assessment that was made about the date of the
22 information that was actually released. And part of that
23 effort was to determine what was the date of the latest
24 document in that file. And based on that date, we would be
25 able to figure out that there was no way the leaked information

K203SCH5

Evanchech - Direct

1 could occur before that date because there was information
2 dated after that. So it became very important to understand
3 the dates of the information in the release.

4 Q. Did that assessment subsequently change?

5 A. It did.

6 Q. How did it change?

7 A. It shifted just a few days earlier to ultimately where we
8 found to be March 3, the date of the backup and the
9 information.

10 Q. Was that based on the FBI's investigation?

11 A. It was.

12 Q. Now, you said that you obtained a search warrant for the
13 defendant's residence; is that correct?

14 A. That's correct.

15 Q. When was the first time you obtained a search warrant for
16 the defendant's residence?

17 A. The first warrant was signed by the federal magistrate on
18 March 13, 2016.

19 Q. How did that warrant permit you to search the defendant's
20 residence?

21 A. So, this warrant --

22 THE COURT: 2016, Agent?

23 THE WITNESS: Yes, sir. Yes, your Honor.

24 '17. I'm sorry. Thank you, your Honor.

25 MR. LAROCHE: Thank you, your Honor.

1 A. This warrant authorized the FBI to do this search in
2 secret. Normally when we do a search warrant, we do it in an
3 overt way. We provide notice to the individual whose premises
4 are being searched and we actually leave a receipt.

5 In this case, the federal magistrate judge, given the
6 circumstances of the case, and his travel, authorized us to do
7 it where we would not have to notify the subject and provide
8 receipt of our entrance into his residence.

9 Q. Did you eventually search the defendant's apartment?

10 A. FBI agents did, yes.

11 Q. When?

12 A. Hours after that authority was obtained on March 13, 2017,
13 agents entered his residence the same day.

14 Q. Did the FBI seize anything as part of that search?

15 A. We did not.

16 Q. Why not?

17 A. When agents entered Mr. Schulte's residence, there was such
18 a large volume of data that it would have been impossible for
19 us to even begin to collect that data, given the time frame we
20 had. We expected he was going to come home from work within a
21 couple of hours of our search beginning. So the search team
22 left without actually seizing or copying any information from
23 his residence.

24 Q. Did there come a time when you searched his residence
25 again?

1 A. There did.

2 Q. When did you do that?

3 A. March 15, 2017.

4 Q. Before doing so, did you get another search warrant?

5 A. Yes, sir.

6 Q. Why did you get another search warrant?

7 A. Each time the FBI conducts a search, it's required to get
8 an additional search warrant with renewed authority from a
9 federal magistrate judge, so we did that. We applied for a new
10 search warrant on March 14, 2017, and we ultimately executed
11 that search on March 15, 2017.

12 Q. That same day, March 15, did you also decide to interview
13 the defendant?

14 A. Yes, sir.

15 Q. Why did you decide to interview the defendant that day?

16 A. Normally, absent travel, we probably wouldn't have chose
17 this early to interview the subject of a counterintelligence
18 investigation. We generally spend months and months at times
19 collecting evidence before we talk to someone.

20 In this case, given his travel, we thought it was
21 necessary to, one, understand his background a little bit,
22 about what he did at the CIA, and why he was traveling to
23 Mexico.

24 Q. Did you end up seeing the defendant on March 15, 2017?

25 A. We did.

K203SCH5

Evanchech - Direct

1 Q. Where?

2 A. As he was exiting his employer, Bloomberg, at 120 Park
3 Avenue.

4 Q. Who was with you?

5 A. It was myself and Special Agent David Donaldson.

6 Q. Did the defendant know that you were coming?

7 A. He did not.

8 Q. When you saw him, did you identify yourself?

9 A. We did. We identified ourselves as FBI agents and showed
10 him our credentials.

11 Q. What happened during that initial interaction at Bloomberg?

12 A. We told the defendant we were from the FBI, and that we
13 would like to speak to him regarding the Vault 7 release. And
14 he agreed to speak with us.

15 Q. Did you stay at Bloomberg's lobby?

16 A. No, sir.

17 Q. Where did you go?

18 A. We moved to a restaurant called Pershing Square on East
19 42nd Street near Grand Central Station.

20 Q. Is that a public restaurant?

21 A. It is, yes, sir.

22 Q. Why did you go there?

23 A. We wanted to create an environment where Mr. Schulte would
24 have been comfortable to meet with us. Where he would -- we
25 did not have an arrest warrant at that moment for him, he

K203SCH5

Evanchech - Direct

1 wasn't in custody. We didn't want to project that he was in
2 custody. We wanted to create an open environment for him to
3 speak to us.

4 Q. When you got to the restaurant, where did you interview the
5 defendant within the restaurant?

6 A. So the three of us sat in a table at the rear end of the
7 dining room.

8 Q. Was the defendant free to leave?

9 A. He was.

10 Q. Other than you and Agent Donaldson, were there other FBI
11 agents in or near Pershing Square?

12 A. Yes. So we had agents that were positioned in the
13 restaurant near our table, primarily for two reasons: One, for
14 security for us, and in the event that something went bad, they
15 were there to assist us. And second, simply to occupy the area
16 around us, and to look for anything that might have been out of
17 the ordinary, someone trying to listen to our conversation,
18 etc. In addition, we had agents that were positioned outside
19 providing surveillance and, again, security to the building.

20 Q. Did you tell the defendant about those agents?

21 A. We did not.

22 Q. Why not?

23 A. Again, we wanted the defendant to be comfortable in
24 speaking with us. My experience as an agent, the most likely
25 way you are to get honest and candid and open discussion is by

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1 creating an environment where you can elicit just that.

2 Q. Are you familiar with something called 1001 warnings?

3 A. I am.

4 Q. What are those?

5 A. 1001 is a federal law, and it requires that when people are
6 speaking to FBI agents, they provide truthful information. And
7 if they don't, it's a violation of federal law.

8 Q. Did you provide the defendant those warnings before you
9 spoke with him that night?

10 A. We did not.

11 Q. Why not?

12 A. It was our assessment that saying something so formal to
13 him, putting him on notice immediately that he could
14 potentially violate federal law, would have been counter to our
15 plan to create, again, an open and comfortable setting for him
16 to speak with us.

17 Q. What was the defendant's demeanor like during the
18 interview?

19 A. The defendant was, frankly, cooperative, he was friendly,
20 he was easy to talk to, and otherwise a pleasure to speak to.

21 Q. Did he appear nervous at all during the meeting?

22 A. There was one instance where I recall very vividly looking
23 over his hand, and I observed his hand trembling.

24 Q. Did the defendant tell you how he learned about the Vault 7
25 leak?

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1 A. Yes, sir, he did.

2 Q. What did he say?

3 A. He indicate that he was at a training in Bloomberg, and one
4 of his colleagues that knew he previously worked for the CIA
5 had told him that WikiLeaks had made a release.

6 Q. What, if anything, did he tell you about where the
7 information had come from?

8 A. He indicated the information had come from Confluence.

9 Q. Where within the CIA was Confluence, if he said?

10 A. He said it was from Confluence. I believe from the DevLAN
11 system.

12 Q. Did he tell you whether or not he thought that the leak had
13 been harmful?

14 A. He indicated that it wasn't too severe. I believe he also
15 mentioned around that time that this actually didn't contain a
16 source or binary code to the tools, but simply what he
17 described as the wiki, that kind of explained how the tools
18 worked.

19 Q. Did you ask the defendant how the leak may have occurred?

20 A. We did.

21 Q. What did he say?

22 A. He responded by giving us some advice. He said, one, we
23 might look at the network activity on the system and see if
24 there were spikes in that activity, and maybe that would point
25 us to someone who may have been slowly copying information. He

1 also indicated that we should look at the backup server.

2 Q. What, if anything, did the defendant say about who may have
3 stolen the information?

4 A. We asked him specifically if it was a hack or if it was
5 someone on the inside. He said, basically, based on his
6 knowledge of the system, and his knowledge of his co-workers,
7 that he thought both were unlikely.

8 Q. Did he say anything about the network itself, whether it
9 was secure or not?

10 A. Yes. He said it was, it was -- it was relatively unsecure
11 and open.

12 Q. Did he say anything about whether he reported security
13 concerns to supervisors?

14 A. He did.

15 Q. What did he say?

16 A. He said he reported security concerns to his management.

17 Q. Did he identify anyone in particular?

18 A. He did.

19 Q. Who?

20 A. Karen.

21 Q. What did he say about Karen?

22 A. He indicated I believe that her approach to security was,
23 quote unquote, lax.

24 Q. If we can just bring up Government Exhibit 1119 again. You
25 talked about this e-mail earlier. Do you recall that?

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1 A. Yes, sir, I do.

2 Q. Did you ask the defendant whether he still had a copy of
3 this e-mail?

4 A. I did.

5 Q. What did he say?

6 A. He said he did not possess a copy of this e-mail.

7 Q. When you asked this question, did the defendant know that
8 you were going to search his apartment?

9 A. When that question was asked, the defendant did not know I
10 was going to search his apartment.

11 Q. When the apartment was searched, did the agents find this
12 e-mail?

13 A. They did.

14 Q. Showing you if we can publish Government Exhibit 1616,
15 please. What is this?

16 A. This is the defendant's e-mail to OIG on the last day of
17 his work that was recovered from his residence.

18 MR. LAROCHE: We can pull that down.

19 Q. You said earlier that early in the investigation, you
20 learned that the defendant had some issues with accesses on
21 DevLAN; is that correct?

22 A. That's correct.

23 Q. Did you ask the defendant about that while he was at
24 Pershing?

25 A. We did.

- 1 Q. What did he say about that?
- 2 A. The defendant indicated that he was working on certain
3 tools at the CIA, and he required access on those tools to do
4 his job.
- 5 Q. We just talked about the e-mail he sent on the last day of
6 the agency. Did you ask him why he left the CIA?
- 7 A. Yes. He indicated that he was frustrated with how things
8 were run, in sum and substance.
- 9 Q. Now, did there come a time when another agent came to
10 Pershing and became involved in the interview?
- 11 A. Yes, there did.
- 12 Q. Who was that agent?
- 13 A. My supervisor, Supervisor Special Agent John Hoy.
- 14 Q. What happened when that agent arrived?
- 15 A. When my supervisor arrived, he delivered to the defendant
16 two federal grand jury subpoenas. One was for him to provide
17 his cellular phone to the FBI; the second was a subpoena to
18 compel him to testify in front of a federal grand jury on
19 March 17, 2017.
- 20 Q. Just generally, what is a grand jury subpoena?
- 21 A. It is a legal document that obligates someone who is
22 receiving it to comply with the government request.
- 23 Q. After you provided those subpoenas, did you remain at
24 Pershing or did you leave?
- 25 A. We left.

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1 Q. Where did you go?

2 A. We went to his residence on East 39th Street.

3 Q. At that point, had you told him that his residence was
4 going to be searched?

5 A. We did.

6 Q. Did he go to his residence?

7 A. He did.

8 Q. What happened when you got to his residence?

9 A. Prior to entering his residence, we had asked him if there
10 was any danger that agents might encounter upon entering the
11 residence. He said there was not. He wanted to explain that I
12 believe there was 25 terabytes of data in his residence. He
13 proceeded to use his key to gain us entrance into his
14 residence.

15 Q. Did he agree to do that?

16 A. He did.

17 Q. Did the defendant say anything about a diplomatic passport
18 at the residence?

19 A. He did.

20 Q. What did he say about that?

21 A. He indicated that he had retained a diplomatic passport
22 from his time at the CIA that he had not returned that was
23 inside of his residence.

24 Q. What is a diplomatic passport?

25 A. Diplomatic passport is a passport issued by the State

1 Department that is given to government employees who are
2 serving in diplomatic functions.

3 What was interesting to us is that a diplomatic
4 passport often affords the bearer of that passport certain
5 legal protections overseas. So that if one of our diplomats
6 encounters a legal issue overseas, a diplomatic passport
7 indicates that they have certain diplomatic protections that
8 might, you know, help alleviate them from legal burdens
9 overseas.

10 Q. You testified that the defendant told you that that
11 diplomatic passport was in his apartment; is that correct?

12 A. That's correct, sir.

13 Q. Was the diplomatic passport found in his apartment?

14 A. It was not.

15 Q. Did the defendant stay at his apartment during the search?

16 A. He stayed for a portion of it, and I believe at 10:19 p.m.
17 he departed the residence.

18 Q. Before he left, did he say anything to you?

19 A. He indicated he would return at 11:30 p.m. to check on the
20 status of the agents' searches.

21 Q. Did the defendant return at 11:30 p.m.?

22 A. He did not.

23 Q. Were you able to locate him after that?

24 A. We did.

25 Q. When was the next time approximately that you located him?

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1 A. I believe it was just after midnight, around 12:15 p.m. We
2 observed him again in the lobby of the Bloomberg building at
3 120 Park Avenue.

4 Q. Did you approach him?

5 A. We did.

6 Q. Who was with you at that time?

7 A. At the time it was myself, Special Agent Gary Ido, and
8 Special Agent John Summers.

9 Q. What, if anything, did you say to the defendant at that
10 time?

11 A. We indicated to him that we had obtained classified
12 information or found classified information in his residence.
13 And we also indicated that we had not recovered his diplomatic
14 passport.

15 Q. What, if anything, did the defendant say in response?

16 A. He indicated the diplomatic passport was actually in his
17 office at Bloomberg.

18 Q. Did he go anywhere after that?

19 A. Yes, he escorted us along with a security official from
20 Bloomberg to his desk where we took possession of the
21 diplomatic passport.

22 Q. Did you take possession of any other passport at that time?

23 A. Yes.

24 Q. What passport?

25 A. His personal passport.

1 MR. LAROCHE: If we can just publish to the Court, the
2 parties and the witness Government Exhibit 1622.

3 Q. Do you recognize this?

4 A. It appears to be the passport that we recovered.

5 Q. Does it fairly and accurately represent that diplomatic
6 passport?

7 A. It does.

8 MR. LAROCHE: We'd offer this into evidence.

9 THE COURT: Any objection?

10 MR. BRANDEN: I don't know how we would know it is for
11 this defendant just based on the cover picture.

12 MR. LAROCHE: We can roll through a few pages.

13 MR. BRANDEN: No objection.

14 THE COURT: Received in evidence.

15 (Government's Exhibit 1622 received in evidence)

16 MR. LAROCHE: If we can just publish that for the
17 jury, just from the first page.

18 Q. You said this is the diplomatic passport you were provided
19 on that night by the defendant?

20 A. That's correct, sir.

21 Q. We can go to the second page, please, and next page.

22 Can you just read what that text says on the bottom.

23 A. "The bearer is abroad on a diplomatic assignment for the
24 United States government."

25 Q. Where was the defendant working at that time?

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1 A. Bloomberg.

2 Q. Was the defendant permitted to have a diplomatic passport
3 working for Bloomberg?

4 A. He was not.

5 MR. LAROCHE: Go to the next page, please. We can
6 pull that down.

7 Q. After he provided you the passports, did you stay at
8 Bloomberg?

9 A. We did not.

10 Q. Where did you go?

11 A. We advised the defendant at that time, that given the
12 amount of data he had in his apartment, it would be several
13 hours by the time agents were completed, so we recommended that
14 he get a hotel room. I believe he booked a time at the Hampton
15 Inn, and we walked with him to the Hampton Inn.

16 Q. While you were walking to Hampton Inn, did the defendant
17 say anything to you?

18 A. He did.

19 Q. What did he say to you?

20 A. He asked us if we thought he was responsible for the
21 WikiLeaks release.

22 Q. What, if anything, did you say in response?

23 A. I responded by saying that if you were in our shoes, what
24 would you think.

25 Q. Did the defendant respond to that?

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1 A. He did.

2 Q. What did he say?

3 A. He said that the FBI would now possess all of his digital
4 media. He felt bad that the FBI would have to review that
5 media, but review of that would ultimately exonerate him.

6 Q. Did you ask the defendant any additional questions that
7 night?

8 A. I asked him again if he was responsible for the WikiLeaks
9 release.

10 Q. What did he say?

11 A. He said he was not.

12 Q. Did you ask him whether he had anything else in his
13 apartment that was classified?

14 A. We did.

15 Q. What did he say?

16 A. He did not.

17 Q. Did you have any other interactions with the defendant that
18 day that you can recall?

19 A. We did not.

20 Q. Did there come a time when you interviewed the defendant
21 again?

22 A. Yes.

23 Q. When did that happen?

24 A. March 20, 2017.

25 Q. Where did that meeting take place on March 20, 2017?

1 A. At the Department of Justice offices here in Manhattan.

2 Q. Who attended that meeting?

3 A. That meeting was attended by myself, the defendant, Special
4 Agent Donaldson, two assistant United States attorneys, and two
5 of the defendant's private attorneys.

6 Q. How long did that interview last?

7 A. I believe that interview lasted about three and a half to
8 four hours.

9 Q. You said that the defendant had two attorneys with him that
10 day?

11 A. Yes, sir, he did.

12 Q. What, if anything, were those attorneys asked to sign at
13 the outset of the meeting?

14 A. They were asked to sign a non-disclosure agreement.

15 Q. What is a non-disclosure agreement?

16 A. A non-disclosure agreement is essentially a contract
17 between an individual and the U.S. government that obligates
18 that individual from keeping confidential anything that they
19 may hear in meetings. So in this situation, there was a
20 likelihood that classified information could have been
21 discussed, and in an abundance of caution we wanted to make
22 sure the attorneys understand the need to protect that
23 information so we had them execute and sign a non-disclosure
24 agreement.

25 Q. Did they sign those agreements?

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- 1 A. Yes, sir, they did.
- 2 Q. Was the defendant present when they signed them?
- 3 A. He was.
- 4 Q. You said the meeting took place at the U.S. attorney's
5 office; is that correct?
- 6 A. Yes, sir.
- 7 Q. Where is that located?
- 8 A. That is located around the corner, actually. Just here
9 near the courthouse.
- 10 Q. In Manhattan?
- 11 A. Yes, at St. Andrews.
- 12 Q. At the outset of the meeting, what, if anything, was the
13 defendant told?
- 14 A. The defendant was told that it was a violation of federal
15 law, that 1001 that we spoke about before, to lie to FBI
16 agents.
- 17 Q. Did you discuss the network DevLAN during the meeting?
- 18 A. We did.
- 19 Q. I want to focus on that for a moment. Was the defendant
20 asked about DevLAN servers?
- 21 A. He was.
- 22 Q. Did he say anything about a server that was used by his
23 branch OSB?
- 24 A. He was.
- 25 Q. What did he say about that?

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1 A. The defendant indicated that he and one of his colleagues,
2 at the end of the government's fiscal year, had recommended
3 that they purchase a server for use by OSB. He went on to
4 indicate that he ultimately became the responsible party for
5 the server, and that this server was ultimately the one
6 compromised in the WikiLeaks release.

7 Q. You talked about Confluence earlier, correct?

8 A. Correct.

9 Q. Did he say whether Confluence was located on that server?

10 A. He did.

11 Q. Did he say -- withdrawn.

12 What, if anything, did the defendant say about ISB and
13 that server?

14 A. So, he said that, generally, servers in the CCI building
15 should be maintained by the intelligence -- excuse me. The
16 infrastructure branch. He indicated they were not very good,
17 so that he and a colleague took over roles of administering
18 that server.

19 Q. Who did he identify as those having roles administering the
20 server?

21 A. Himself, and -- I'm sorry. Jeremy Weber.

22 Q. Was there an additional person that he also identified?

23 A. Himself.

24 Q. And were there three total?

25 A. Yes. There were three. Yes, in addition to that -- I'm

1 sorry. I have to look at the sheet of paper here.

2 Q. Are you familiar with an individual named Patrick?

3 A. Yes.

4 Q. Who is Patrick?

5 A. Patrick was an individual who at one point worked for the
6 Center for Cyber Intelligence and relocated overseas.

7 Q. Did Patrick ever have a role in administering DevLAN?

8 A. He did.

9 Q. Did the defendant talk about that?

10 A. He did.

11 Q. Did you take any steps based on the information provided
12 you about Patrick?

13 A. Yes. So after this interview, I had gone back to the
14 office and had taken an account of what the defendant had told
15 us about Patrick. He indicated that Patrick was one of the
16 individuals who helped him build the DevLAN network, and had
17 suddenly left to go to an offsite location.

18 Based on that, in my mind, Patrick was someone that we
19 should look at a little harder, given the intimate knowledge he
20 had about the system, he would be someone who we would want to
21 know more about and consider his involvement in this. So I
22 asked our team to take a better look at Patrick.

23 Q. Did they do that?

24 A. They did.

25 Q. Focusing back on the March 20 interview of the defendant.

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1 Was the defendant asked about how the information that
2 WikiLeaks had could have been taken?

3 A. He was.

4 Q. What did he say?

5 A. He gave us three options to consider. He said, one, that
6 it could have been a -- excuse me -- a page by page scrape
7 where essentially someone would go into the server, and
8 literally copy every single page of the DevLAN network that was
9 ultimately released. Secondly, he said that someone could have
10 remote or physical access to the server. And thirdly, he
11 indicated that we would want to look at the backup servers,
12 which I understand to be the offsite lock.

13 Q. Did the defendant also talk about backups that were stored
14 on something called Candlestick?

15 A. He did.

16 Q. What was he referring to there?

17 A. Candlestick was essentially the NetApp that contained
18 backup versions of the filed Atlassian products. The defendant
19 indicated that in each of the virtual machines there was a
20 mount that would daily send information from the Atlassian
21 suite of products to the NetApp or to the backup.

22 Q. Did the defendant say who was responsible for moving that
23 backup data to the Candlestick share?

24 A. He did.

25 Q. Who did he say was responsible?

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1 A. He was.

2 Q. Did the defendant say anything about the scripts for the
3 backups?

4 A. Yes, he indicated I believe between this interview and the
5 one the following day that both he and Patrick were responsible
6 for that.

7 Q. Did you ask the defendant about restrictions on that backup
8 share?

9 A. Yes.

10 Q. What did he say?

11 A. He said he was unaware of what the restrictions were. He
12 was aware that there were restrictions in place, but was not
13 specifically aware what they did and how they worked.

14 Q. Did you also ask the defendant about home directories on
15 that NetApp server?

16 A. We did.

17 Q. What did he say about those?

18 A. He indicated that it was very common for employees in the
19 group to have their home directories or share drives, for lack
20 of a better word, on the NetApp.

21 Q. Did he say anything about SSH keys in those home
22 directories?

23 A. Yes. He said people would store SSH keys in their home
24 directories which could be found on the NetApp.

25 Q. Did he say anything about whether the SSH keys could be

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1 used in the theft?

2 A. He did. He indicated someone could go into someone's
3 folder, take their SSH keys, and login.

4 MR. LAROCHE: Can we publish Government Exhibit
5 1207-1, please. Just zoom in on that, please.

6 Q. Do you recognize this?

7 A. I do.

8 Q. What is this?

9 A. This is the private key for Rufus that was found on the
10 defendant's home directory on the NetApp.

11 Q. Can we just zoom in on the "accessed." What's the accessed
12 date there?

13 A. Wednesday, April 20, 2016, at 5:18:58 p.m.

14 MR. LAROCHE: We can pull that down.

15 Q. Before the end of the meeting, did the defendant say how he
16 thought the information was taken?

17 A. Remote or physical access to the server.

18 Q. Did you have another meeting with the defendant the next
19 day?

20 A. Yes, sir, we did.

21 Q. Who was at that meeting?

22 A. The same parties as were in the previous day. Two
23 assistant United States attorneys, two defense attorneys, the
24 defendant, myself and Special Agent Donaldson.

25 Q. Where did this meeting tack place?

1 A. Once again at the offices of the United States Department
2 of Justice here in Manhattan.

3 Q. How long approximately did this meeting take?

4 A. About four hours.

5 Q. What, if anything, was the defendant told at the beginning
6 of this meeting?

7 A. Once again, as with the previous day, he was told he was
8 obligated to be truthful, or he could face criminal liability
9 through a 1001 charge.

10 Q. Did the defendant's attorneys sign anything at the outset
11 of the meeting?

12 A. I believe they reinitialed the non-disclosure agreements
13 they had signed the previous day.

14 Q. Did you talk about the backups with the defendant again
15 that day?

16 A. Yes, that was how the meeting began, with an overview of
17 the NetApp.

18 Q. What did he say about that?

19 A. Again, he indicated that he was responsible for helping to
20 design the way the backups were sent. And again explained that
21 concept of a mount in each of the virtual machines that would
22 on a daily basis automatically send that information to the
23 NetApp.

24 He indicated that, on occasion, the infrastructure
25 branch would tell him that the server was becoming full. And

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1 on two occasions he indicated that the infrastructure branch
2 asked him go into the NetApp and actually delete old backups so
3 that new backups could come into the NetApp.

4 Q. Did the defendant tell you how he would actually get to the
5 backups?

6 A. If memory serves me correctly, I believe he would access
7 through the Stash virtual machine.

8 Q. Did he talk about physical access to that server?

9 A. He did.

10 Q. What did the defendant say about that?

11 A. He indicated that he presumed that it was located on a
12 certain floor in the CCI building, and indicated that he had
13 never actually been to that server in his belief. But he
14 acknowledged that he had been to at least one server room
15 before. But indicated he had never -- never interacted with
16 it.

17 Q. At the time of this interview, March 21; is that correct?

18 A. That's correct.

19 Q. How many disclosures had WikiLeaks made at that point?

20 A. I believe it was still one at that point.

21 Q. Where did that information come from?

22 A. Confluence.

23 Q. Did the defendant talk about that Confluence data that had
24 been disclosed?

25 A. He did.

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1 Q. What did he say about it?

2 A. He indicated, suggested again that it wasn't too severe.
3 That he was worried about what remained to be released, but
4 went on to say that the thought of the work of the CCI
5 employees potentially being destroyed was, quote unquote,
6 fucking terrible.

7 Q. You talked, there's been testimony about changes that were
8 made on April 16, 2016, to the system; is that correct?

9 A. That's correct.

10 Q. Did you ask the defendant about those changes to DevLAN?

11 A. No.

12 Q. Did the defendant talk about a time when changes were made
13 to administrative rights on the system?

14 A. He did.

15 Q. What did he say about that?

16 A. He indicated that there was a time when the changes were
17 made to the system in order to regain control of it.

18 Q. Did he say why?

19 A. He did not specifically say why.

20 Q. Did there come a time during the interview when you asked
21 him a series of questions related to the WikiLeaks disclosures?

22 A. Yes.

23 Q. What types of things did you ask him?

24 A. We asked him in total 14 questions. Those questions were
25 very specific and direct and straightforward. Questions like:

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1 Did you intentionally leave the DevLAN system vulnerable to
2 attack? Have you been in touch with anyone from WikiLeaks? Do
3 you know anybody who has been in touch with WikiLeaks?

4 So just general questions to, you know, understand
5 that whether he did or did not play a part in this leak.

6 Q. How did he respond to those questions?

7 A. He responded "no" to each and every question.

8 Q. Did you ask him whether he provided information to
9 WikiLeaks?

10 A. I did.

11 Q. What did he say?

12 A. No.

13 Q. Did you ask him whether he had ever made CIA systems
14 vulnerable to theft?

15 A. I did.

16 Q. What did he say?

17 A. "No."

18 Q. Did you ask him whether he ever stored information from
19 DevLAN at his home?

20 A. I did.

21 Q. What did he say?

22 A. "No."

23 Q. Now, when you asked the defendant these questions, did he
24 tell you about his activities on April 18, 2016, on DevLAN?

25 A. He did not.

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- 1 Q. What about April 20, 2016?
- 2 A. He did not.
- 3 Q. Did he tell you he deleted log files on April 20, 2016?
- 4 A. He did not.
- 5 Q. Did he tell you he reverted Confluence on April 20, 2016?
- 6 A. He did not.
- 7 Q. Did he tell you he accessed the backups on April 20, 2016?
- 8 A. He did not.
- 9 Q. Did you know about any of those activities at the time of
10 this interview?
- 11 A. At that time we did not, sir.
- 12 Q. Did there come a time when you met with the defendant
13 again?
- 14 A. Yes, sir.
- 15 Q. Was this the last time, the fourth time?
- 16 A. It was the lame time. It occurred in late June of 2017.
- 17 Q. Where was this meeting?
- 18 A. Again, in the U.S. Department of Justice offices here in
19 Manhattan.
- 20 Q. Who was at this meeting?
- 21 A. I believe it was again the same parties as before.
- 22 Q. So, there was some prosecutors there; is that right?
- 23 A. Yes.
- 24 Q. You were present?
- 25 A. Yes, sir.

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1 Q. Was there any other FBI agents present?

2 A. Yes, Special Agent Donaldson.

3 Q. And defendant was there, obviously. Did he have any
4 attorneys with him?

5 A. He did. Two attorneys again, sir.

6 Q. What, if anything, was the defendant told at the outset of
7 this meeting?

8 A. At the outset of this meeting, he was again admonished that
9 it was an obligation to speak truthfully to the FBI, and he was
10 also told he was the subject of an FBI investigation.

11 Q. Did the defendant say anything about talking outside of a
12 SCIF when the meeting started?

13 A. He did.

14 Q. What did he say?

15 A. He asked if it was -- it was proper for him, if he needed
16 to speak about classified information in the room that we were
17 in, which was not a SCIF.

18 Q. What, if anything, did you say response?

19 A. I believe it was the AUSA who responded and said that the
20 purpose or intention of this interview was not to elicit
21 classified information, but if the defendant felt he needed to
22 do so, he should feel free to stop the interview and we would
23 make other accommodations.

24 Q. By the time of this meeting, had WikiLeaks published
25 information about Brutal Kangaroo?

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1 A. Yes, sir, I believe at this time there were more than 10
2 releases and Brutal Kangaroo was one of them.

3 Q. Did you ask the defendant about that?

4 A. Yes, sir.

5 Q. What did you ask him?

6 A. We asked if he knew about the Brutal Kangaroo release. He
7 indicated to us that he was in fact aware of it. He went on to
8 indicate that this was a project that he had worked on for more
9 than a year, and he was aware of it having been released.

10 Q. Did you ask him whether he ever worked on Brutal Kangaroo
11 at home?

12 A. We did.

13 Q. What did the defendant say in response?

14 A. He said he had not.

15 MR. LAROCHE: Blow up Government Exhibit 1404-6,
16 please.

17 Q. Do you recognize this, sir?

18 A. I do.

19 Q. What is this?

20 A. This is a Portable Eraser command that appears to show a
21 queue of things to be released. Two items, one of which, when
22 fully expanded, is the project Brutal Kangaroo.

23 Q. Is that the bottom file listing there?

24 A. It is.

25 Q. Did you ask the defendant whether he had ever taken

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1 anything from DevLAN to his home?

2 A. We did.

3 Q. What did he say?

4 A. He did not.

5 MR. LAROCHE: We can pull that down.

6 Q. Did you also show the defendant pictures of his home
7 electronics that were seized during the search of his
8 apartment?

9 A. Yes, sir.

10 Q. Show you Government Exhibit 1601-2, please. Did you show
11 the defendant a picture of this computer?

12 A. We did.

13 Q. What did he say about this computer?

14 A. This was one of his computers, I believe one of his desktop
15 computers.

16 Q. Was this seized during the search of his apartment?

17 A. It was.

18 Q. Did the defendant say anything about whether he let others
19 use the computer?

20 A. With this specific computer, he said he did not let others
21 use this computer.

22 MR. LAROCHE: We can pull that down.

23 Q. Did you ask the defendant about encrypted portions of that
24 computer?

25 A. We did.

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1 Q. Did you ask for the passwords of those portions of the
2 computer?

3 A. He did.

4 Q. Did he provide those passwords?

5 A. The defendant denied our requests for the passwords.

6 Q. Were you here for the testimony of Mr. Berger?

7 A. I was.

8 Q. Do you recall testimony about an encrypted container being
9 mounted on April 18, 2016?

10 A. I do, sir.

11 Q. Was that container titled data.bkp?

12 A. Yes, it was.

13 Q. The FBI was able to view the contents of that container; is
14 that correct?

15 A. We were.

16 Q. Is it true that there were no classified materials in the
17 contents of data.bkp?

18 A. There was no classified information in that specific
19 container.

20 Q. Did the defendant say anything about building the computer?

21 A. He did. When questioned about three different devices, he
22 said that it was his normal practice when he gets a new
23 computer to migrate files that might exist on one computer to a
24 new computer, and otherwise wipe the contents of them prior to
25 rebuilding.

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1 MR. LAROCHE: Your Honor, may I approach?

2 THE COURT: Yes.

3 MR. LAROCHE: Thank you.

4 Q. One of the items I handed you has been entered into
5 evidence as Government Exhibit 1603. Do you see that?

6 A. Yes, sir.

7 Q. What is that?

8 A. It is a thumb drive bearing the letters UFCU.org.

9 Q. Is it in a bag right now?

10 A. Yes, sir, it is.

11 Q. Can you just hold that up for the jury to see.

12 Was this thumb drive seized during the search of the
13 defendant's apartment?

14 A. Yes, sir, it was.

15 Q. Was he asked about the thumb drive?

16 A. He was.

17 Q. What did he say about it?

18 A. He said that it was his.

19 Q. If we can show you Government Exhibit 1605-3, please. It
20 will be on your screen.

21 A. Yes, sir.

22 Q. What's this a picture of?

23 A. This is a picture of the defendant's server racks that
24 appear to have two servers mounted on them.

25 Q. What did he say about these servers?

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1 A. That these were his servers. And that at least one of them
2 or both of them, I believe, others did have access to them.

3 Q. As part of the FBI's review of these servers, did the FBI
4 identify chat messages on these servers?

5 A. Yes. Housed on one of the servers were what are called an
6 Internet Relay Chat or IRC chat. It is essentially an instant
7 messaging type of function. And those were found on the
8 server.

9 Q. Did you ask the defendant about those chats?

10 A. We did.

11 Q. What did he say about those chats?

12 A. He indicated that there was a handful of group of his
13 friends that would use this IRC function to communicate, and he
14 identified himself as Josh as the user name that he utilized.

15 Q. I'd like to publish Government Exhibit 1405-5, please. Do
16 you recognize this, sir?

17 A. Yes. It appears to be a transcript of an IRC chat.

18 Q. Was this one of those IRC chats that was found on the
19 server?

20 A. I believe so.

21 Q. What year was this chat from?

22 A. I think this was 2013.

23 MR. LAROCHE: With the Court's permission, I'd like to
24 read a portion with the agent of this chat.

25 THE COURT: Yes.

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1 MR. LAROCHE: Thank you, your Honor.

2 Q. I will read John. If you can please read the defendant
3 Josh.

4 A. Okay.

5 Q. "So you did fuck up."

6 A. "No."

7 Q. "Heh."

8 A. "It's a different project, ended up not needing to go in
9 yesterday. Okay, so my NTFS dir list of my machine manages a
10 50 megabyte file with 711084 lines which is pretty close now I
11 think. I now have three problems left: An invalid MFT file
12 record for one directory, so missing all its files and subdirs.
13 An attribute list problem for two directories whereby the attrs
14 I need may be off disk somewhere else. And some dataruns
15 issues with like six directories where the dataruns data for
16 the directory looks invalid as fuck and I bail. Wow, holy
17 shit. The invalid file record was an exact end case in which
18 the very last MFT in the first series ended at byte 66584576.
19 And so did this file, however it should have been a >= instead
20 of a >. Wow. Yay that worked. One down, two to go."

21 Q. "Nice how come you are allowed to work at home."

22 A. "If something's unclass then it doesn't really matter. The
23 parsing file systems isn't according to me."

24 Q. "Fair enough but don't you need to do your dev at work on
25 the classed systems?"

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1 A. "Yeah."

2 Q. "So how do you continue work you started at work."

3 A. "Problem with shit like this is you can't really design it
4 cuz you don't know what its structure is until you've partially
5 written it. So it kinda looks shitty, and I need to clean it
6 up a tad. [Http://cryptm.org/~josh/NTFSdirwalk.cpp](http://cryptm.org/~josh/NTFSdirwalk.cpp). I take it
7 out on a CD. Throw it up on my server like that. Take it off
8 and put it on my work system. Generally as like as you're
9 using one-way systems then you're fine. As long."

10 Q. "Wow our work would have a fit if you did that without
11 prior permission."

12 A. "Really."

13 Q. "Oh wait. I see what you are saying. You never take data
14 off the classed system."

15 A. "The dev network I do to put on a CD."

16 Q. "What if there's a virus on your computer that secretly
17 copies classed info on to it when you burn it."

18 A. "A virus on the classified computer?"

19 Q. "Yeah I mean that's how stuxnet worked."

20 A. "Sort of."

21 Q. "But it involved bringing it back."

22 Sorry, that was Josh.

23 "Stuxnet didn't bring back data I thought."

24 A. "Using the same media, or at least taking and inserting
25 over the same media."

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1 Q. "Okay. But let's just say there's a super virus that has
2 infected all the computers on the classed network. Would it
3 not be infeasible for it to add classed info to any
4 device/storage medium that gets plugged into it."

5 A. "Then we've got a bigger issues on our hands" smiley wink.
6 "Yeah, I mean, there's not a place for it to go through. I
7 bring the CD home, copy off what I need, and either shred the
8 CD or take it back to work and dump it in the CD disposal."

9 Q. "I mean if they have infected all your classed systems they
10 probably would have infected your home machine too."

11 A. "Actually the dev network is a dirty class network anyway.
12 We don't actually have any classified important stuff except
13 source code on it."

14 Q. "Oh, okay."

15 A. "Our other classified network that has all the good stuff
16 is much more restrictive of who/how you put stuff on and take
17 it off."

18 Q. "We have a policy of any data that came from a classed
19 network/machine is also classed by default."

20 A. "On a good day I never log into that piece of shit anyway.
21 Crap windows XP and lotus notes that sucks dick."

22 Q. "LOL does the hardware just not support win7."

23 A. "No, they're just stupid."

24 Q. "You should totally dual boot it. Just put a Linux live CD
25 in it."

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1 A. "That's the system I can't put CDs into though. You can't
2 touch it."

3 MR. LAROCHE: That's enough for that one. We'll pull
4 that down.

5 Q. I want to show you a second chat. Government Exhibit
6 1405-11, please. This one is a little shorter and I'll read
7 John again.

8 "I'm reading this
9 <https://antipolygraph.org/lie-behind-the-lie-detector.pdf> seems
10 kind of interesting. What's your opinion on polygraphs."

11 A. "They are a means of social engineering. Penn and Teller
12 did a good episode of Bullshit! about polygraphs."

13 Q. "Yeah."

14 A. "[https://cryptm.org/data/shows/bullshit!/season%207/S07E05%
15 20%20Lie%20Detectors.avi](https://cryptm.org/data/shows/bullshit!/season%207/S07E05%20%20Lie%20Detectors.avi)" smiley. "You?"

16 Q. "Yeah, that's basically my opinion too."

17 A. "The dude was right, it's the polygraphers who are complete
18 douchebags."

19 Q. "I just wonder how hard it is for say a spy to get through
20 an NSA polygraph. Like, I'd imagine the background checks do a
21 lot more to keep out spies than polygraph."

22 A. "The problem is once someone is in, then the background
23 checks do very little. Like, as long as you believe in your
24 lie, then you can pass it pretty easily. Also, I hear a lot of
25 people go 'inconclusive' in polygraphs meaning there is no

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- 1 clear indicator to the polygraphers."
- 2 Q. "But 'inconclusive' means you don't get the clearance."
- 3 A. "Nope. You still get it."
- 4 Q. "WTF."
- 5 A. "And you can maintain it."
- 6 Q. "Here you don't."
- 7 A. "Even if you fail it, you get many more chances to retake
8 it. Says who. I forget. I bet it's the same because I know
9 NSA trains your polygraphers."
- 10 Q. "Hmm."
- 11 A. "I mean, it is about the polygraphers and what kind of shit
12 they can get out of you. Not really about the test itself.
13 You can still fail it though. I've heard of some people who
14 don't get a clearance because they outright fail the polygraph.
15 And that can be for a number of reasons from nervousness to
16 simple physiology. I heard that a lot of co-ops fail to get
17 their clearances because they lied about not having done weed.
18 Heh. That's actually the question I had the most trouble with.
19 And apparently I kept failing it. Even though I've never done
20 drugs."
- 21 Q. "LOL."
- 22 A. "I think the guy was just phishing because he didn't think
23 a college kid had never even tried drugs before." Tongue out
24 emoji.
- 25 Q. "Ha-ha."

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1 A. "So fuck that guy. He was such a fucking dick. He told
2 me, well, you'll probably be on your way back to Texas wishing
3 you hadn't lied here. I was like WTF. I even decided if I had
4 to retake it that I'd just tell them to forget it. Dude there
5 were some people in my access class that failed it like four or
6 five times. And others that who took six years to get cleared.
7 I was like, Jesus. On Monday, February, just seven days before
8 the joint secretary commission issued its report the FBI
9 arrested CIA counter."

10 Q. Go to the next page, please.

11 A. "Intelligence officer Aldrich Hazen Ames and charged him
12 with spying for the former Soviet Union and later Russia.
13 Since beginning his betrayal in, Ames had passed two CIA
14 polygraph tests during which he falsely denied having committed
15 espionage, first on May and again in April. He went
16 inconclusive. Hmm. ROFL."

17 Q. What's ROFL?

18 A. Roll on the floor laughing.

19 Q. Who is Aldrich Ames?

20 A. Aldrich Ames was a notorious CIA spy who spied for the
21 Soviet Union and Russia, was ultimately convicted and sentenced
22 for his work as a CIA employee spying for those entities.

23 MR. LAROCHE: You can pull that down.

24 Q. Earlier today you talked about the search of the
25 defendant's apartment in New York City that happened on

1 March 15, 2017; is that correct?

2 A. That's correct.

3 Q. I've handed you a folder to your left that has a series of
4 pictures marked as Government Exhibit 1623 through 1644. Can
5 you please take a moment and look at those.

6 Do you recognize those?

7 A. Yes, sir, I do.

8 Q. What are they?

9 A. These are photographs that the FBI evidence personnel took
10 as they conducted the search of the defendant's home on
11 March 15.

12 MR. LAROCHE: Your Honor, we'd offer 1623 through 1644
13 into evidence.

14 MR. BRANDEN: No objection.

15 THE COURT: They are received in evidence.

16 (Government's Exhibit 1623 through 1644 received in
17 evidence)

18 MR. LAROCHE: Let's take a look at some of those
19 pictures. If we can publish, please, Government Exhibit 1623.

20 Q. What's this picture showing?

21 A. This is the picture of the defendant's door from the
22 exterior hallway view.

23 Q. If we can go to 1624, please. What's this showing?

24 A. This is a photo with the photographer's back to the front
25 door looking into towards his kitchen and living room.

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1 Q. How about 1625, please.

2 A. Again, with the photographer's back to the front door,
3 looking into the living room, at a bookcase there in the
4 hallway and you can see a peek into the bedroom kind of in the
5 middle of the photo.

6 Q. You see there is a cabinet on the right? What's on top of
7 the cabinet on the right?

8 A. This is where the FBI found a number of the hard drives
9 that the defendant had in his residence. And some of the other
10 media.

11 Q. Go to 1636, please. What's this showing?

12 A. This is essentially a closeup of that bookcase that shows
13 in greater detail some of those hard drives.

14 Q. If we can go back to 1627, please. What's this picture
15 showing?

16 A. This is a picture prior to the search that shows the
17 defendant's living room. And if you look kind in the middle,
18 to the middle left, you'll see a number of computer monitors.
19 That was his home desktop computer workstation.

20 Q. Let's go to 1630, please. What's this showing?

21 A. Again, a photo of the living room. This time with the back
22 of his computer workstation there in the middle, to the middle
23 left.

24 Q. You see in the top left there is a black box looking thing
25 at the top there?

1 A. Yes, sir.

2 Q. What is that?

3 A. That is a paper shredder.

4 Q. Can you circle that, please?

5 A. Sure.

6 THE COURT: What did you call that?

7 THE WITNESS: A paper shredder, your Honor.

8 Q. If we go to 1629, please. You see in this photo of the
9 living room, there is a black box next to the TV?

10 A. Yes, sir.

11 Q. What is that?

12 A. That is his server rack.

13 Q. You can circle that, please.

14 MR. LAROCHE: If we can go to 1640, please.

15 (Continued on next page)

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K2oWsch6

Evanchech - Direct.

1 BY MR. LAROCHE:

2 Q. What's this showing?

3 A. This is a handwritten note that was recovered during our
4 search that includes the personal email address of Jeremy
5 Weber, among other notes.

6 Q. Was this found within the apartment?

7 A. It was.

8 MR. LAROCHE: Could we go to 1641, please.

9 Q. What's this photo showing?

10 A. This is a photo of the -- of the defendant's bedroom. What
11 you're looking at here is the foot of his bed.

12 Q. What about 1642, please?

13 A. This is a photo of his bedroom, this time looking at the
14 headboard of, of his bed and his closet area, in his bedroom.

15 MR. LAROCHE: Go to 1644, please.

16 Q. Finally, what's this picture showing?

17 A. This is the foot of his bed, featuring what appears to be a
18 bookcase, TV stand and a dresser.

19 Q. Now, you talked about some of the electronics that were
20 recovered from the defendant's apartment earlier, is that
21 correct?

22 A. That's correct, sir.

23 Q. Did you also recover documents from the apartment?

24 A. We did.

25 MR. LAROCHE: If we can go back to 1642, a moment ago.

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Evanchech - Direct.

1 Q. You identified a headboard here, is that correct?

2 A. Yes, sir.

3 Q. Were there certain things that were found in the headboard?

4 A. Yes. This is the location where the FBI recovered the
5 classified OIG email. In addition to that, there were a series
6 of handwritten notes and a time line that were maintained in
7 there from his time at the CIA and other emails that were
8 internal agency -- internal official use only that were
9 recovered from the aforementioned compartments of this
10 headboard.

11 MR. LAROCHE: Let's look at some of those other
12 documents, if we could go to 1616.

13 Q. We've looked at this a few times. Was this one of the
14 documents that was found in the headboard?

15 A. Yes, sir, it was.

16 MR. LAROCHE: If we could go to 1617.

17 Q. What's Government Exhibit 1617?

18 A. This is a chain of emails the defendant was party to
19 with -- with his employees at work related to, I believe, the
20 situation with Amol.

21 MR. LAROCHE: If we can go to the third page of this
22 exhibit, please.

23 Q. Is this one of the emails we looked at earlier today? The
24 top email.

25 A. This is an email that I reviewed as part of this

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Evanchech - Direct.

1 investigation, yes.

2 Q. And this was still one of the emails found at the
3 defendant's home, is that correct?

4 A. It was, yes, sir.

5 MR. LAROCHE: If we could go to page 7 of this
6 exhibit, please.

7 Q. Do you recognize this page?

8 A. I do.

9 Q. And just generally, what is this email?

10 A. This is an email where the defendant, again, talks about
11 Amol having threatened him and the chain of events, as he sees
12 them, between him and his management to try to resolve that.

13 MR. LAROCHE: If we could go to page 12 of this
14 exhibit, please.

15 Q. What about this email?

16 A. The email that the defendant sent to Bonnie, where he
17 accuses them of leaking to Amol details of his, what he thought
18 should be confidential interactions with EAP and other
19 entities.

20 MR. LAROCHE: If we could go to page 16, please.

21 Q. Just generally, what was this email?

22 A. This is an email where the defendant speaks with Sean about
23 his -- his unacceptable PAR rate.

24 MR. LAROCHE: And page 18, please.

25 Q. What about this email?

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1 A. Again, email related to his PAR, where he believes his
2 rating was in retaliation for his reporting a security
3 incident.

4 MR. LAROCHE: Let's go to Government Exhibit 1618.

5 Q. You referenced some handwritten notes that were found in
6 the apartment?

7 A. Yes, sir, I did.

8 Q. Where were these handwritten notes found?

9 A. In the headboard we discussed previously.

10 Q. Looking at page 1, what is the name at the top of the page?

11 A. Jeremy Weber, OSB.

12 Q. Just read that first paragraph.

13 A. "Established poor character; motive for restricting
14 promotion; does not care about other people or the incident;
15 took advantage of incident and took over my projects without
16 authorization; told Karen after the fact; did not like my
17 handling of pull requests or management of OSB libraries."

18 MR. LAROCHE: Let's go to page 2, please.

19 Q. Please read that page.

20 A. "When did you realize that this incident was the perfect
21 opportunity for you to take full control of the OSB libs and
22 revoke my permissions? Did you not feel my management of the
23 OSB libs was poor? You always wanted to scale back my access.
24 Why did you think you had this authority? No one gave you this
25 authority. Why did you not involve Josh? He was sys admin.

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1 At what point did Karen get involved? What was discussed? Did
2 you tell her what should happen? Were you aware that I had no
3 idea these projects were to be removed from me and that Anthony
4 issued no -- me a memo of warning? What did you and Anthony
5 discuss? Were you in any way reprimanded? Did you and Karen
6 talk and plan to specifically not tell me about my permission
7 removal, are you issue me a memo of warning?"

8 MR. LAROCHE: Go to page 3, please.

9 Q. What's the name at the top of this page?

10 A. Matt OSB.

11 Q. Was there someone named Matt who worked in OSB with the
12 defendant?

13 A. There was.

14 Q. About halfway down there's a line starting "isn't it true."
15 Can you read from that line until the end of the page, please?

16 A. "Isn't it true that you were upset that I brought you into
17 investigation? After reporting incident to EEO, I was seen by
18 you and others as a quote/unquote snitch and that I should not
19 have reported any of it or used your name in the report even
20 though it was all true. So you're more concerned with the fact
21 that investigators were talking with you than you are for me or
22 Amol."

23 MR. LAROCHE: Go to page 4, please.

24 Q. What's the name at the top of this page?

25 A. Amol OSB.

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1 Q. About halfway down, there's a line "deplorable," with an
2 exclamation point?

3 A. Yes.

4 Q. Could you read that paragraph, please.

5 A. "Deplorable. Have you ever made the following statements
6 to me or others? Quote/unquote I wish you were dead.
7 Quote/unquote I want to piss on your grave. Quote/unquote I
8 want to dance on your grave. Quote/unquote I wish you die in a
9 fiery car crash and burn. Oh, I'd be so happy, end quote. I
10 only say I wish you die because I really wish it were true, end
11 unquote. Oh, I hope your whole family dies, never the Schulte
12 line. Oh, I'd be so happy. You find this acceptable? Do you
13 think it's a joke?"

14 MR. LAROCHE: Let's go to the next page, please.

15 Q. What's the title of this page?

16 A. Time line.

17 MR. LAROCHE: Zoom in on phase 1, please.

18 Q. Can you read that?

19 A. "Phase 1, lead-up to threat. 7-10 -- seven to ten, 2015,
20 harassment by Amol. 10/30, 2015, note to Sean. Monday, 2/29,
21 2016, insulted by Amol with Sean sitting there. 3/1, 2016,
22 Sean gone, death threat."

23 MR. LAROCHE: Zoom out and zoom in on phase 2 and 3.

24 Q. Could you read those two phases, please?

25 A. "Phase 2, lack of response. 3/4 TMU. 3/17, official

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1 witness statement. 3/21, EEO process started. 3/22, filed for
2 protective order.

3 "Phase 3, beginning of management blowback. 3/25, Karen's
4 note of refusal to move. 3/29 security begins investigation
5 after receiving outside activity form. 3/29, desk move. Told
6 by Anthony that nothing would be in writing. 4/6, leak of
7 personal info, protective order granted. 4/13, file FOIA
8 request."

9 Q. Finally, phase 4 at the bottom, titled retaliation, please
10 read that.

11 A. "Phase 4, retaliation. 4/4 to 4/14, Jeremy takes charge
12 and removes my access. 4/14, confront Jeremy, Sean. 4/18,
13 memo of warning, removal of access. 5/26, request access to
14 BK, note to HR. 6/3, request follow-up with HR. 6/22, letter
15 of warning. 6/28 email to DDI. 6/28, attempts to give me
16 worthless projects."

17 MR. LAROCHE: Next page, please. Just those top three
18 lines.

19 Q. Please read those.

20 A. "8/8, PAR poorly rated. 8/15, concerns about fair
21 treatment in PAR. 8/18, EEO complaint against Sean."

22 MR. LAROCHE: Go to page 7, please.

23 Q. Who is at the top of this page?

24 A. "Sean C/OSB."

25 MR. LAROCHE: Zoom in on the paragraph starting, "you

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1 listened."

2 Q. Can you read that paragraph, please?

3 A. You listened firsthand to the egregious harassment by Amol:
4 Called asshole. I wish you were dead. I want to piss on your
5 grave. I want to dance on your grave. I wish you die in a
6 fiery car crash. Why did you allow it? My comments cannot
7 compare."

8 MR. LAROCHE: If we could go to page 8, please.

9 Q. If you could read from the top to the line at the bottom.

10 A. "Where were you the day the incident took place, 3/1? You
11 were not there, yet when security spoke with you on 3/2, you
12 told them it was no big deal, that nothing had happened. Why?
13 The morning on 3/2, you called us to security and was very
14 visibly upset. Why did you lie and pretend you didn't know
15 what it was about? Why bring me if you take Amol's side and
16 try to brush the incident off like it never happened? I was
17 treated like a liar and the entire incident was down due to
18 your actions that day. Why? Why did you never even ask me
19 what happened or cared? After being reprimanded, you told me
20 C/EDG was upset I didn't go through my chain of command, and I
21 was perceived negatively by her after your summary."

22 MR. LAROCHE: Go to the next page, please. Just zoom
23 in on the top half of that page, from the line up.

24 Q. Please read that.

25 A. "After I was forced to move branches, did you ever direct

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1 Jeremy or anyone else to remove my permissions to any projects?
2 Did upper management ever direct you to remove me? So to your
3 knowledge, I was not to be removed from any project. Did you
4 know Jeremy took action of his own accord and removed,
5 "presumably me, not sure what that says. "After everything was
6 said and done, were you punished in any way for how you handled
7 the situation?"

8 MR. LAROCHE: Zoom out for a second. You can pull
9 that down.

10 THE COURT: Would this be a convenient place to take
11 our afternoon recess?

12 MR. LAROCHE: Yes, your Honor.

13 THE COURT: All right.

14 (Jury not present)

15 THE COURT: Ten minutes.

16 MS. SHROFF: Thank you, your Honor.

17 MR. LAROCHE: Thank you, your Honor.

18 (Recess)

19 THE COURT: Please be seated.

20 David, please call the jury.

21 (Jury present)

22 THE COURT: Please be seated.

23 Mr. Laroche.

24 MR. LAROCHE: Thank you, your Honor.

25 Could we publish Government Exhibit 1619, please.

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Evanchech - Direct.

1 Q. Was this another set of documents recovered from the
2 defendant's residence?

3 A. It was.

4 Q. Generally, what do these documents relate to?

5 A. Again, the situation with Amol and the defendant's
6 management efforts related to that.

7 MR. LAROCHE: Could we go to the third page of this
8 exhibit, please. And just one more page.

9 Q. What's the title of this page?

10 A. "What I am seeking."

11 MR. LAROCHE: Please zoom in on the text, the two
12 paragraphs at the top there.

13 Q. Could you please that, please?

14 A. "All I want is for things to return to normal and for Amol
15 to at least be moved elsewhere and evaluated by security and
16 medical as a possible threat to the workforce. Since we work
17 in such a high CI environment, it is imperative that security
18 take these complaints seriously.

19 "Since my management, HR, EEO have all failed to address my
20 concern, and since I now feel targeted directly by my
21 management for retribution, I believe I have nowhere else to
22 turn for legal assistance. All I want is an attorney who can
23 represent me and my concerns to the CIA. I believe once CIA's
24 legal team sees my emails and inactive and retributive
25 management, that they will see my complaints justified. The

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1 threat of a lawsuit to the CIA C/CCI/EDG/Karen, C/CCI/SEC/Dana
2 and C/CCI/Bonnie as well as a Washington Post article titled
3 'CIA punishes employee for reporting death threats,' then we
4 will see a reason to settle. I just want my compensation,
5 removal and evaluation of Amol and apologies from Karen, Dana
6 and Bonnie as well as a guarantee that my career will not be
7 negatively impacted."

8 MR. LAROCHE: You can pull that down.

9 If we can publish Government Exhibit 1630.

10 Q. Now, earlier you talked about a shredder that was in this
11 picture, is that correct?

12 A. I did.

13 Q. Did the FBI recover the contents of that shredder?

14 A. We did.

15 Q. Are some of those contents next to you?

16 A. They are.

17 Q. Could you please hold up what's about this entered into
18 evidence as Government Exhibit 1620.

19 And what is that?

20 A. These are shredded papers in small strips, probably a
21 quarter of an inch by three, two and a half inches long.

22 Q. Were they recovered from the shredder in the defendant's
23 apartment?

24 A. They were.

25 Q. Now, did the FBI attempt to reconstruct the contents of

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1 some of those shredded materials?

2 A. We did.

3 Q. How?

4 A. The FBI maintains a unit at the FBI laboratory in Quantico,
5 Virginia, called the questioned documents unit. This unit
6 specializes, and one of the things they do is the recreation of
7 contents from shredders.

8 Q. And so are they able to reconstruct at times shredded
9 documents?

10 A. They are.

11 MR. LAROCHE: If we can publish Government Exhibit
12 1621, please.

13 Q. What is this exhibit?

14 A. This is a print-job cover sheet, and essentially what this
15 is is when you work in a SCIF and you print top secret or
16 highly classified information, you'll get an automatically
17 generated cover sheet that accompanies that. It usually will
18 say who the printer was, and it will provide a classification
19 for the document that is associated with it. In this case,
20 this is a top secret print-cover cover sheet.

21 Q. Now, to be clear, is it possible to print unclassified
22 materials on a top-secret printer?

23 A. It is.

24 MR. LAROCHE: If we can just zoom in on the warning
25 here.

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1 Q. Can you read that, please?

2 A. "Warning: This output is from a top-secret system
3 processing data with multiple SCI compartments and handling
4 caveats. Reliable human review of each page for appropriate
5 classification, control and handling markings is required prior
6 to dissemination from top secret agency control."

7 MR. LAROCHE: And if we can zoom out.

8 Q. And just to be clear, this is marked Government Exhibit
9 1621, is that correct?

10 A. That's what the sticker says, yes, sir.

11 Q. And does this exhibit contain some of the reconstructed
12 shreds that the FBI put together?

13 A. It does.

14 Q. And is this one of those pages?

15 A. It is.

16 MR. LAROCHE: Let's go to page 2, please.

17 Q. What's this showing?

18 A. Again, it appears to be a separate but similar top-secret
19 cover sheet.

20 MR. LAROCHE: If we could put this page next to
21 Government Exhibit 303 at page 9, please.

22 Q. Government Exhibit 303 has been entered by stipulation as a
23 document recovered from the defendant's desk at the CIA. What
24 is that showing, on the right?

25 A. That would have been what the unshredded version would look

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1 like.

2 MR. LAROCHE: We can pull that down.

3 MR. BRANDEN: I'm sorry. Does this witness have
4 expertise in that particular matter, that those two documents
5 are the same, Judge?

6 THE COURT: The objection's overruled.

7 MR. LAROCHE: We can pull that document down, and
8 we'll stick with 1621, please.

9 If we can go to page 6 of that document. If we could
10 just zoom in on that, please.

11 Q. Is this one of the shredded documents that was
12 reconstructed?

13 A. It was.

14 MR. LAROCHE: If we can put up next to this document
15 Government Exhibit 1029.

16 If we can just zoom in on the top portion of that.

17 BY MR. LAROCHE:

18 Q. Do these appear to be the same document?

19 A. They do.

20 MR. LAROCHE: We can take those down.

21 If we can go to page 5 of Government Exhibit 1621,
22 please. And then if we can put up Government Exhibit 1052, and
23 then just zoom in on that middle email.

24 Q. Do they appear to be the same document?

25 A. They do.

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1 MR. LAROCHE: Go to page 44 of Government Exhibit
2 1621, please.

3 Q. And then on the third row of addresses, there's one with
4 Dana and March 3. Do you see that? It's about three-quarters
5 of the way to the right.

6 A. Yes.

7 MR. LAROCHE: If we could pull up Government Exhibit
8 1052 and go to the email at the bottom of the second page.

9 Q. Do you see on the left there's an email from Dana dated
10 Thursday, March 3, 2016?

11 A. Yes.

12 Q. What's the date of this email on the right?

13 A. Thursday, March 3, 2016.

14 MR. LAROCHE: You can pull those down.

15 Q. Now, as part of your investigation, you said you obtained
16 search warrants, is that right?

17 A. Yes, sir, that's correct.

18 Q. You've already talked about a search warrant you obtained
19 for the defendant's apartment, is that correct?

20 A. Correct.

21 Q. Did you obtain any other search warrants?

22 A. Yes. One of the other search warrants that we obtained was
23 for the defendant's Google account.

24 Q. And what was that Google account?

25 A. The Google account was joshschulte1@gmail.com.

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Evanhec - Direct.

1 Q. How did you know that was his account?

2 A. Early in the investigation, one of the things I looked at
3 was Mr. Schulte's SF-86, which, when you are in the government
4 or in the process of applying for a security clearance or
5 getting it reaccredited, you will complete a form called an
6 SF-86, which requires you to detail all of your biographical
7 information, your addresses, your friends, your family, and
8 includes sections that asks for your phone numbers and email
9 addresses.

10 Q. Was that email recorded there?

11 A. It was.

12 Q. What types of things do you get from a search warrant from
13 Google?

14 A. So, Google provides part of its information from its
15 customers, one of the things you get are the emails that remain
16 in your account at the time that the search warrant is
17 executed. You also get, while you're logged in to your Gmail
18 account, you get things like searches that you caused to be
19 entered into Google search. You also get a list of websites
20 that you visit as a result. And if you have a Google phone,
21 you may sometimes get phone records that you have. So
22 basically everything that is tied to your Google account when
23 you're logged in to Google in some way, shape, or form is
24 maintained and produces it to the government.

25 Q. Did you obtain that search history for the defendant's

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1 Gmail account?

2 A. We did.

3 Q. Over approximately what time period?

4 A. Approximately 2006 until the warrant was executed, early
5 March of 2017, so approximately 11 years.

6 Q. There's a folder next to you with Government Exhibits 1350
7 through 1353. Could you look at those, please.

8 A. Yes.

9 Q. Do you recognize those?

10 A. I do.

11 Q. Generally, what are they?

12 A. These are summaries of, of searches and websites visited
13 that I compiled related to the defendant's activity with his
14 Google account.

15 Q. And is that from the Google materials that were provided in
16 this investigation?

17 A. It is.

18 Q. Does that fairly and accurately summarize some of the
19 Google searches conducted by the defendant?

20 A. It does, in summary, correct.

21 MR. LAROCHE: Your Honor, we'd offer Government
22 Exhibits 1350 through 1353 in evidence.

23 MR. BRANDEN: No objection.

24 THE COURT: 1350 to 1353 are received in evidence.

25 (Government Exhibits 1350-1353 received in evidence)

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Evanhec - Direct.

1 MR. LAROCHE: Thank you, your Honor.

2 If we could publish Government Exhibit 1350, please.
3 If we could just zoom in on the text.

4 Q. Now, did you find searches related to wiping materials in
5 the defendant's Google searches?

6 A. We did.

7 Q. And what is this exhibit showing?

8 A. This exhibit shows, on joshschultel@gmail.com account, the
9 very narrow window of late April to early May of 2016, the
10 defendant had conducted eight separate and independent searches
11 regarding terms that would cause someone to completely wipe
12 digital media. In this case, you see Western Digital disk wipe
13 utility, the Samsung SSD wipe utility and how to use DBAN on
14 SSD.

15 Q. Do you see there's a total relevant searches column, eight?

16 A. Yes.

17 Q. This is the sum of the total searches, is that correct?

18 A. Correct. That's the file plus one plus one plus one for
19 eight.

20 Q. And there's a total related pages visited column, six?

21 A. That's correct.

22 Q. What does that reflect?

23 A. We tried to present there, is based on the aforementioned
24 searches, there are a number of websites the defendant visited
25 that would likely have come through, through doing the

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1 searches.

2 Q. And there are some examples and there's some text that
3 appears below?

4 A. Yes.

5 Q. What does that reflect?

6 A. This just -- I picked some, at random, examples of websites
7 that would have been included in that, in that six number.

8 Q. Now, you testified earlier about a June 2017 meeting with
9 the defendant, is that correct?

10 A. I did.

11 Q. You testified that the defendant told you about rebuilding
12 computers, is that correct?

13 A. Correct.

14 Q. In the Google searches you reviewed dating back to about
15 2006, did you see other searches similar to the ones reflected
16 in this exhibit?

17 A. Certainly no cluster of searches like this existed going
18 back 11 years prior to this.

19 Q. Let's talk about searches related to WikiLeaks. Did you
20 find searches related to WikiLeaks in your review of the
21 defendant's Google searches?

22 A. I did.

23 Q. Generally, when did most of those searches occur?

24 A. The bulk, the vast majority of those searches occurred in
25 the beginning of August of 2016.

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Evanhec - Direct.

1 MR. LAROCHE: If we can publish Government Exhibit
2 1351, please. And just zoom in on the text, please.

3 Q. What is this exhibit showing?

4 A. This exhibit shows that over a ten-year period ending in
5 July of 2016, the defendant searched, caused searches,
6 including with WikiLeaks, on three occasions over that ten-year
7 period.

8 Q. And how many total pages were visited?

9 A. Nine.

10 Q. And now, was WikiLeaks publishing materials during this
11 time frame?

12 A. Yes.

13 MR. LAROCHE: Let's pull that down, please.

14 If we could publish Government Exhibit 1352.

15 Q. What is this showing?

16 A. This exhibit focuses, this time, on the time period of
17 August 2016 until January of 2017. So this would be the period
18 directly leading up to actual WikiLeaks, where -- after the
19 WikiLeaks release in 2016. It shows that in that five-month
20 period, there are 39 total searches that would include
21 WikiLeaks or terms that it would, would logically be associated
22 with WikiLeaks, including Assange and other variations of
23 WikiLeaks.

24 Q. How many WikiLeaks-related pages did the defendant visit,
25 approximately, during this time frame?

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1 A. 115.

2 Q. Now, around this time, did WikiLeaks make any disclosures
3 that were in the news?

4 A. Yes.

5 Q. Principally, what did those disclosures relate to?

6 A. I believe in the period of March to October, there were a
7 lot of activity related to WikiLeaks's involvement in obtaining
8 emails from the Hillary Clinton campaign, specifically.

9 Q. Now, you also see that there was a Google search for
10 WikiLeaks code?

11 A. There was.

12 Q. Did WikiLeaks disclose source code related to the Hillary
13 Clinton emails?

14 A. Not to my knowledge.

15 Q. Was source code included in the Vault 7 and Vault 8
16 release?

17 A. It was.

18 MR. LAROCHE: Let's go through a couple of the
19 examples that are listed on this exhibit. If we can zoom in,
20 Ms. Hurst. That's good. Perfect.

21 Q. Let's focus on the August 16, 2016, search. What did he
22 search for there?

23 A. Simply the term "WikiLeaks."

24 Q. What website did he visit from that search?

25 A. A Washington Times website, an article titled "WikiLeaks

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Evanchech - Direct.

1 unveils plans to publish cyber weapons stolen in question group
2 hack."

3 Q. What about August 18; what search was conducted that day?

4 A. Again, WikiLeaks.

5 Q. What website was visited?

6 A. Including Telegraph website article "WikiLeaks and Snowden
7 verify leaked NSA data for auction for 1 million Bitcoin."

8 Q. Who is Snowden?

9 A. Snowden was an employee of the National Security Agency who
10 leaked a significant volume of classified information.

11 MR. LAROCHE: If we could just zoom out, please, and
12 then zoom in at the bottom, on the January 4 search, there.

13 Q. When was this search conducted?

14 A. January 4, 2017.

15 Q. What was the search for?

16 A. WikiLeaks 2017.

17 Q. And what was searched for -- sorry.

18 What was visited from that search?

19 A. An RT.com website titled "WikiLeaks vows to blow you away
20 in 2017 showdown."

21 MR. LAROCHE: Take that exhibit down, please.

22 Q. Now, after the initial March 7, 2017, disclosure in this
23 case by WikiLeaks, did the defendant conduct Google searches
24 related to WikiLeaks?

25 A. He did.

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Evanhec - Direct.

1 Q. Let's focus on just the time frame between March 7 and
2 March 14, 2017. Is this the time frame before you had
3 interacted with the defendant?

4 A. It was.

5 Q. During this time frame, had the defendant contacted --
6 sorry, had the FBI contacted the defendant or told him he was
7 being investigated?

8 A. We did not.

9 MR. LAROCHE: Let's publish Government Exhibit 1353,
10 please.

11 Q. What is this showing?

12 A. This shows, in a one-week period, following the WikiLeaks
13 release, the defendant searching WikiLeaks six times, the CIA
14 eight times, the FBI six times, and a number of other related
15 searches, for a total of 28 relevant searches in that one-week
16 period.

17 Q. How many related pages did he visit?

18 A. 91.

19 MR. LAROCHE: Zoom in on the searches conducted in
20 April, at the top, please.

21 Q. You said he conducted searches for the CIA eight times, is
22 that correct?

23 A. Yes, sir.

24 Q. And WikiLeaks seven times?

25 A. Yes, sir.

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Evanchech - Direct.

1 Q. Then there's a line for the FBI six times?

2 A. Correct.

3 Q. Why did you include the FBI in these searches?

4 A. At the time it was widely reported in the media that the
5 FBI was leading the investigation to WikiLeaks release in Vault
6 7.

7 Q. Do you see two more down there's a search for WikiLeaks
8 public opinion?

9 A. Yes.

10 MR. LAROCHE: Zoom out for a second. Zoom in on some
11 of the searches themselves. We can do March 7, 2017, please.

12 Q. What did the defendant search for that day?

13 A. On March 7 he searched for the letters F-B-I.

14 Q. What websites did he visit?

15 A. Daily Mail website titled "FBI prepares hunt for the source
16 of CIA documents"; a Washington Post website titled "What we
17 know about car hacking, the CIA and those WikiLeaks claims"; a
18 Fox News website titled, "WikiLeaks reveals CIA hacking trove,
19 has Feds on mole hunt"; an L.A. Times website titled "FBI joins
20 CIA hunt for leaker."

21 MR. LAROCHE: Zoom out and go to the second page,
22 please. Just zoom in on the March 9 search, please.

23 Q. What did he search for that day?

24 A. WikiLeaks public opinion.

25 Q. What pages did he visit?

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Evanhec - Cross

1 A. A Wikipedia website titled "reception of WikiLeaks."

2 MR. LAROCHE: Nothing further, your Honor.

3 THE COURT: Mr. Branden.

4 CROSS-EXAMINATION

5 BY MR. BRANDEN:

6 Q. Good afternoon, Agent. I'm Jim Brandon. How are you?

7 A. Good afternoon, Mr. Branden. I'm fine. How are you, sir?

8 Q. Good. Thank you.

9 I want to talk initially about your early involvement in
10 the matter here.

11 A. OK.

12 Q. The leak, we can agree, was on March 7 of 2017, is that
13 correct?

14 A. That's correct, sir.

15 Q. And when were you first contacted about that leak?

16 A. So, I believe it was later that day we had received at the
17 New York field office a call from our FBI headquarters about
18 the leak.

19 Q. And had you been working on other projects at the time?

20 A. I had. I was fully assigned to other projects prior to
21 that, prior to the leak.

22 Q. Were you recruited specifically to join the FBI
23 investigation of this leak?

24 A. Nope. I was -- I was an agent on the squad that would have
25 normally investigated this and I was next in line for a case,

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Evanhec - Cross

1 and this one just happened to come my way and was assigned by
2 my supervisor.

3 Q. OK. And pretty shortly after you were assigned, you came
4 to believe that there was a single suspect in this matter, is
5 that correct?

6 A. There was an individual that became the leading suspect,
7 that's correct.

8 Q. OK. And that was within a matter of days of the leak,
9 correct?

10 A. That was, yes, sir.

11 Q. And with regard to the Washington office, I think you
12 testified that they were looking at the matter more
13 holistically or globally, correct?

14 A. That's correct, yes, sir.

15 Q. OK. And you interacted with them on a relatively daily, if
16 not hourly, basis, correct?

17 A. That's fair, certainly in the first several months of the
18 investigation, yes, sir.

19 Q. And in their early estimation, what was the pool of
20 potential people that could have been responsible for the leak?

21 A. So -- thank you for the question.

22 The pool actually flowed, quite frankly. WikiLeaks, over
23 the course of six months, had 24 different releases. Every
24 time a release was made, it caused the Washington office to
25 readjust their thinking about who could be in the subject pool.

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Evanchech - Cross

1 There were times where, you know, the subject pool neared 200.
2 You know, I believe, ultimately it rested in the 160s, is where
3 it ultimately ended.

4 Q. Is that a chronological assessment in the sense that the
5 200 or 200-plus number was an early number and then it got down
6 to 160? Is that what you're suggesting?

7 A. I don't know that I would be that -- that linear about it.
8 Certainly with each release, as I mentioned before, there was a
9 cause to figure out where did the information come from? Was
10 it from Confluence? Was it from Stash, or was it foreign? So
11 that it really was a constantly evolving effort to make sure
12 they got that right.

13 Q. And as part of your initial investigation, I think you may
14 have said this on direct, that you, for example, reviewed the
15 defendant's SF-86, correct?

16 A. That's correct, yes, sir.

17 Q. Was that one of the first things that you did?

18 A. It was.

19 Q. And what does that form contain?

20 A. So, as I testified earlier, sir, that form is the
21 requirement that goes along with the either initiation or
22 reinitiation of your security clearance. So that would be
23 basic information: your name; social security number; date of
24 birth; places that you lived over the recent history; phone
25 numbers that you've used; emails that you used? References as

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Evanhec - Cross

1 far as -- as friends, family members, etc. It's a very
2 exhaustive review of one's entire life, which gives
3 investigators some leads of where they could go to make sure
4 you're someone trustworthy to interact with classified
5 information.

6 Q. And with some of that information, I think you also
7 testified that you were able to subpoena Google's records, for
8 example?

9 A. That was a search warrant, yes, sir.

10 Q. OK. Oh, I'm sorry. It was a search warrant. Yes.

11 And were you also able to begin to know some of the people
12 that you might want to interview as a result of reviewing that
13 form?

14 A. It was.

15 Q. Did you also take possession of all of the equipment at the
16 CIA that was potentially touched or managed by the defendant?

17 A. Yes.

18 Q. And you reviewed his work phone records, did you not?

19 A. Yes. That was one of the items we reviewed, yes.

20 Q. And how many people in the first week, say, did you
21 interview in regard to Mr. Schulte?

22 A. In the first week. I would say probably five to ten in the
23 first week as we were still getting our feet under us.

24 Q. And who were those people, if you recall?

25 A. Those were people that we knew had interactions with the

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Evanchech - Cross

1 defendant. Off site, for example, the day of the leak we knew
2 from our phone records the defendant had reached out to six or
3 seven of either current or former CIA employees, so that became
4 pretty interesting to us. Why is the defendant so interested
5 in that? So those would be people we would want to talk to
6 right away.

7 Q. Let me ask you with regard to that.

8 A. Yes.

9 Q. You mentioned the day of the leak, you believed the leak
10 was the 7th or 8th of March, is that correct?

11 A. That was the date of the information, yes.

12 Q. So you were looking to see who he was talking to at that
13 time?

14 A. No, sir. Sometimes -- I'm sorry. Maybe there's a
15 miscommunication. The day of the leaks are March 7, 2017.

16 Q. Oh, I see.

17 A. That he was in touch with a number of current and former
18 CIA employees that day. Those were people that we quickly
19 wanted to identify and interview.

20 Q. OK. And did you interview them, in fact?

21 A. We did.

22 Q. And did you review, for example, his LinkedIn profile?

23 A. His LinkedIn profile, I believe, was one of the things we
24 looked at, yes.

25 Q. And I think over the course of the investigation, you filed

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Evanchech - Cross

1 a multitude of subpoenas, is that correct?

2 A. That's correct, sir.

3 Q. OK. You filed subpoenas for Twitter accounts and Facebook
4 account information, correct?

5 A. Yes, sir, that's correct.

6 Q. And search warrants, you said already, for Google. Did you
7 file a search warrant application for Reddit?

8 A. I believe so.

9 Q. And GitHub?

10 A. I believe so, yes.

11 Q. What about Apple and Facebook and Microsoft?

12 A. I believe all of those were -- were either subject of
13 search warrants or federal grand jury subpoenas.

14 Q. OK. And did you also open a pen register on the
15 defendant's personal apps?

16 A. We did.

17 Q. Within a week of your investigation, you determined that
18 you should seek a search warrant for his residence in New York,
19 correct?

20 A. That's correct, sir.

21 Q. OK. And again, you told me that you wanted to do that
22 because why?

23 A. Because at the time, the facts of the case suggested that
24 the defendant had left CIA on unfavorable terms; had a history
25 of using that system in, in ways that compromised the integrity

1 of that system; and you know, based on that -- I'm sorry.

2 Q. I'm sorry. What system did he compromise?

3 A. DevLAN.

4 Q. DevLAN? Within the first week you believed that you knew
5 that he compromised DevLAN in some capacity?

6 A. We had reason to believe that there may be evidence
7 contained in his home that would help us understand that.

8 Q. And furthermore, I think you testified that you believed
9 that his proposed travel plans were quote/unquote concerning?

10 A. Yeah, and the defendant also indicated to us that he
11 understood why we were so concerned about that, given that it
12 was only the second time that he had traveled overseas in his
13 life.

14 Q. But that's after the fact; that's when you interviewed him?

15 A. Correct, yes, sir.

16 Q. But before, before deciding whether or not you were going
17 to seek a search warrant application, it was concerning to you
18 that the defendant had plans to go to Cancun?

19 A. It was, yes, sir.

20 Q. Had you investigated who he might be going to Cancun with
21 or whether he was going alone?

22 A. We did.

23 Q. Who was he going to --

24 A. His brother.

25 Q. So the defendant's trip to Cancun was concerning even

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Evanchech - Cross

1 though he was going with his brother and even though he'd been
2 out of the country previously, correct?

3 A. Yes.

4 Q. OK. And further, it was concerning to you despite the fact
5 that you believed that the released material dated back to
6 2016?

7 A. Released back to 2013.

8 Q. 2016.

9 A. The information released was from 2013, 2016.

10 Q. Yeah, all the way to 2016.

11 A. Correct, yes, sir.

12 Q. That material had been -- it was a year old at that point?

13 A. At that point, yes, sir, correct.

14 Q. About a year?

15 A. Correct.

16 Q. And in that initial search warrant application, you
17 indicated, did you not, that you thought that the leaked
18 information dated to the 7th or 8th of March in 2016? Correct?

19 A. That's correct, sir.

20 Q. And then did you not indicate also in the application that
21 there was some sort of, you know, symmetry by the fact that it
22 was exactly one year to the day that the WikiLeaks leak
23 occurred? Correct?

24 A. We did, yes, sir.

25 Q. But we later find out, according to you, at least, that

1 there's no symmetry because that's not the date that the
2 material was obtained --

3 A. That's correct, sir.

4 Q. -- correct?

5 And then you based other -- you made other hypotheses or
6 conclusions based all on those wrong dates; so, for example,
7 you noted in your search warrant application that there had
8 been a management retreat offsite on one of those days,
9 correct?

10 A. That's correct.

11 Q. But that would prove irrelevant at the end of the day,
12 right?

13 A. If the dates shifted, they would be -- yes, it would be
14 irrelevant at that point.

15 Q. OK. And the search warrant, if I recall, allowed you to
16 covertly search the defendant's apartment, correct?

17 A. That's correct.

18 Q. And you were permitted to do that on March 13 of 2017,
19 correct?

20 A. That's when the warrant was signed, yes, sir.

21 Q. And that was the same day that you actually executed that
22 search, correct?

23 A. Correct. Within hours of the authority, yes, sir.

24 Q. And the defendant was not present at the time, correct?

25 A. That's correct, sir.

K2oWsch6

Evanchech - Cross

1 Q. And he had no notice that his unit was going to be
2 searched?

3 A. Yes, sir, that's correct.

4 Q. OK. At the time of the search, did you know where he was?

5 A. I believe he was at work at the time.

6 Q. OK. Do you believe that, or do you know that he was at
7 work at that time?

8 A. I personally was in Virginia at that time. I wasn't on the
9 surveillance team, but it was represented to me that he was at
10 work at that time.

11 Q. Was there somebody within the Bloomberg offices that was
12 also surveilling him at the time of that search?

13 A. I believe that the FBI was in contact with Bloomberg to
14 ensure that he was -- he was at work.

15 Q. And was there somebody there to monitor his behavior such
16 that if he noticed somehow, by a camera, remote camera or
17 something like that, that his unit was being searched he would
18 react in some fashion?

19 A. I'm sorry. I don't understand your question, sir.

20 Q. So, I'm wondering if somebody actually was monitoring this
21 defendant for a reaction to news he might gain somehow --

22 A. Yes.

23 Q. -- that his unit was being searched?

24 A. We had protocols in place to, to monitor the subject.

25 Q. And what were those?

1 A. At Bloomberg.

2 My understanding is that there were discussions with people
3 at Bloomberg who could provide that information for us.

4 Q. OK. When you get -- when the agents get to the apartment,
5 we've seen some pictures of it, the apartment looks like it's
6 in some disarray, is that correct?

7 A. Depends on your standards of cleanliness.

8 Q. OK. And there's an awful lot of computer equipment in
9 there, correct?

10 A. There are.

11 Q. And you told me that it was, or you told the jury that the
12 equipment was so voluminous that there was no chance that you
13 could actually seize it or copy it at that time?

14 A. On the 13th, that's correct, sir.

15 Q. And you didn't want the defendant to this that you had been
16 there, is that correct?

17 A. That's correct.

18 Q. OK. With the information that you gained on the 13th,
19 which was basically there's a lot of computer equipment in the
20 apartment, you made another application, is that correct?

21 A. The following day, yes, sir.

22 Q. OK. And that application was also granted, correct?

23 A. Yes, sir.

24 Q. And for what type of search was that?

25 A. Similar search. At this time there would be notice to the

1 defendant that the FBI was searching.

2 Q. OK. And that was granted on the 14th of March 2017,
3 correct?

4 A. That's correct, sir.

5 Q. You didn't execute that search that very day, as you had
6 with regard to the search warrant application grant on the 13th
7 of March, correct?

8 A. Correct.

9 Q. And why did you wait, if there's any reason?

10 A. The warrant didn't require that we execute the same day, so
11 we chose a date and time that would -- would work for our
12 investigative strategy and the interview plan we were hoping
13 for.

14 Q. How did the interview plan come together?

15 A. Again, because of that, that travel, we wanted to talk to
16 the defendant and understand his involvement with the DevLAN
17 system and understand his travel plans, so it really was
18 understanding -- understanding travel.

19 Q. And the travel was planned for what date? I apologize. I
20 know you've said this, but I don't remember.

21 A. March 16, 2017.

22 Q. So it would be the day after you're actually going to
23 execute the search warrant, correct?

24 A. That's correct, sir.

25 MR. BRANDEN: One second, if I may?

1 THE WITNESS: Yes, sir.

2 Q. So let me ask you just a few questions about your
3 investigation of the proposed Mexico trip.

4 A. I'm sorry?

5 Q. With regard to the proposed Mexico trip that the defendant
6 was planning to take on the 16th --

7 A. Sure.

8 Q. -- did you interview or speak with the defendant's
9 brother --

10 A. We --

11 Q. -- who was also traveling with him?

12 A. We did not.

13 Q. OK. But you learned, nonetheless, that he was going with
14 the brother?

15 A. We did.

16 Q. And did you learn whether or not they had one-way tickets
17 or whether they had round-trip tickets?

18 A. It was a round-trip ticket that he had purchased.

19 Q. OK. And did it appear to you that this trip had been
20 planned pretty far in advance?

21 A. I believe the trip was ticketed on February 27, 2017.

22 Q. OK. So two months in advance, essentially, or a month in
23 advance?

24 A. Just over a week.

25 MR. BRANDEN: OK. Now I'm moving back to where I was.

K2oWsch6

Evanhec - Cross

1 Excuse me for a second.

2 Q. I think I was asking you about the plans to interview the
3 defendant in conjunction with the search warrant on the 15th,
4 correct?

5 A. Yes.

6 Q. And how did it come together? I think I interrupted myself
7 with regard to the --

8 A. Yeah. So, we wanted to get the defendant's side of this
9 story, but prior to his trip to Cancun. We knew he was leaving
10 on the 16th. The 15th was the last full day he was going to be
11 in New York. Given that he had only traveled out of the
12 country one time before, we felt we needed to get in front of
13 him and understand what was going on with him, his involvement
14 at the CIA and his, his, his planned travel.

15 Q. What was concerning about the fact that he had only been
16 out of the country once before?

17 A. I would have been less concerned if this defendant had
18 traveled extensively. One previous term of travel didn't make
19 me feel as good as I would have felt if he was traveling
20 overseas for personal reasons every two to three months. So it
21 wasn't -- in all things considered, the totality of
22 circumstances at the time, it was a concern to the FBI.

23 Q. But it's spring-break time, right; it's March?

24 A. The defendant was not a college student at the time.

25 Q. OK. How old was his brother?

K2oWsch6

Evanchech - Cross

1 A. College -- closer to college age than he was.

2 Q. You met the defendant on the afternoon or early evening of
3 the 15th at his office building, correct?

4 A. That's correct, sir.

5 Q. OK. How did that come about, that you -- did you chance
6 upon meeting him?

7 A. We -- we knew that the workday at Bloomberg ended in the
8 early afternoon -- late afternoon, early evening, so we
9 positioned ourselves outside of Bloomberg to have an encounter
10 with him.

11 Q. And did he come down into the lobby alone? Was he with
12 other people?

13 A. I believe he was alone at the time, if memory serves me
14 correctly.

15 Q. Did you approach him inside the building itself, or did you
16 approach him outside?

17 A. I don't recall the specific location. I don't -- I don't
18 recall the specific location. I'm sorry.

19 Q. OK. And you introduced yourself, correct?

20 A. We did, yes, sir.

21 Q. OK. Both of you introduced yourselves?

22 A. Yes, sir.

23 Q. And that was you and Agent Donaldson, right?

24 A. That's correct, sir.

25 Q. And did you show him your badge?

K2oWsch6

Evanchech - Cross

- 1 A. No. We showed him our credentials.
- 2 Q. You showed him your credentials. OK. And I know that you
3 asked him if he would like to speak with you regarding the
4 leak, correct?
- 5 A. Yes, sir.
- 6 Q. That was your initial question or remark to him?
- 7 A. That was what we wanted to speak about, and that's what we
8 said.
- 9 Q. And did you suggest to him that you go to the Pershing
10 Square Cafe?
- 11 A. We did.
- 12 Q. And did he have any problem with your suggestion?
- 13 A. Not that I recall.
- 14 Q. Did he say that he would speak to you?
- 15 A. He did.
- 16 Q. Did he say that he thought that maybe he should contact a
17 lawyer before speaking to you?
- 18 A. I don't recall that.
- 19 Q. OK. And I think that you said also that you did not give
20 him 1,001 rights, for example, correct?
- 21 A. That day we did not, sir, correct.
- 22 Q. Because you didn't want to alarm him?
- 23 A. True, correct.
- 24 Q. He wasn't alarmed enough by the fact that the two FBI
25 agents had already come up to him to talk about the WikiLeaks

1 leak?

2 A. Recognizing that that was alarming enough, I didn't want to
3 add heat to fire as you would say.

4 Q. And in addition, did you give him what are commonly known
5 as Miranda warnings?

6 A. We did not. He was not under arrest.

7 Q. So the defendant agreed to go with you to the Pershing
8 Square Cafe, which is how far away from Bloomberg?

9 A. It was a short block from Bloomberg.

10 Q. And that restaurant's sort of underneath Park Avenue, is it
11 not, right near 42nd Street?

12 A. It is, yes, on East 42nd, sir.

13 Q. And you enter sort of a long restaurant, long and narrow?

14 A. That's correct, sir, yes.

15 Q. And you went towards the back, correct?

16 A. Correct. Kind of deeper into the restaurant, that's
17 correct.

18 Q. And part of that is because you'd prestaged all of this?

19 A. We were aware of what the setup of the restaurant was,
20 that's correct.

21 Q. And so there were certain agents that were distributed more
22 towards the back, is that correct?

23 A. Yes, sir, that's correct.

24 Q. So did you ask the defendant when you walked in, Where
25 would you like to sit, or did you usher him towards the back?

K2oWsch6

Evanchech - Cross

1 A. I believe that we chose the table and he joined us.

2 Q. OK. And how long did you speak with the defendant in that
3 cafe?

4 A. I believe that it was over -- over an hour, maybe even an
5 hour and a half that we were there with him. It was a cogent
6 conversation.

7 Q. And what time of day would this have been?

8 A. This would have been early evening, around the time it
9 ended.

10 Q. But the search had not yet begun over at the apartment?

11 A. No, sir.

12 Q. And were you hoping to get his consent for that search?

13 A. I didn't --

14 Q. Was that one of your objectives?

15 A. I didn't need his consent to do a search.

16 Q. Ultimately, though, he did consent to the search of his own
17 apartment, correct?

18 A. He consented to opening the door.

19 Q. He consented to opening the door?

20 A. Yes.

21 Q. And he didn't say I'm opposed to you searching, for some
22 reason, correct?

23 A. He did not.

24 Q. So you met with him for an hour and a half. Were you
25 trying to build a rapport with him?

K2oWsch6

Evanchech - Cross

1 A. As with any interview, any interaction, yes.

2 Q. Were you trying to get him to perhaps confess to something
3 related to WikiLeaks?

4 A. If he had confessed, I wouldn't have -- I wouldn't have
5 denied it. I wasn't looking for him to confess at the time.

6 Q. But you did ask him specifically about that event, the
7 release of the Vault 7 materials, correct?

8 A. Certainly, yes, sir.

9 Q. And did he at any time say to you: You know what? I don't
10 want to answer your questions anymore?

11 A. No. There was one time where he wanted to use the restroom
12 and we permitted him to do that. That was the only break or
13 pause in the event.

14 Q. And then after he used the restroom, he came back and
15 talked to you some more, correct?

16 A. He sure did, yes.

17 Q. And so you would say overall that he was cooperative, he
18 volunteered information?

19 A. At the time that was -- that was my perception, yes, sir.

20 Q. OK. And he told you all about the trip to Mexico?

21 A. He did.

22 Q. And he mentioned, We're going down for spring break; my
23 brother's a college student?

24 A. He did.

25 Q. None of that assuaged your interest in doing the search

K2oWsch6

Evanhec - Cross

1 however, right?

2 A. No.

3 Q. OK. Did the defendant on that day at some point -- was he
4 carrying a backpack?

5 A. He was.

6 Q. OK. And on that day, did he consent to let you search that
7 backpack?

8 A. He did. After he had gone back to Bloomberg and come back
9 down the stairs, we confronted him with the fact that he had
10 classified information in his home, he consented to let us
11 search his backpack, which we did.

12 Q. And nothing nefarious was found in the backpack, right?

13 A. No, sir.

14 Q. OK. And with regard to the passports, the defendant had
15 two passports, am I right?

16 A. That's correct, sir.

17 Q. OK. He had the diplomatic passport --

18 A. Yes, sir.

19 Q. -- for which he said was in his Bloomberg office area,
20 correct?

21 A. No.

22 Q. No? Where was the diplomatic passport?

23 A. He initially told us it was in the residence.

24 Q. Oh, OK. And where was his regular passport?

25 A. I believe that was in his book bag.

K2oWsch6

Evanhec - Cross

1 Q. On that day, do you collect both of those passports?

2 A. We do.

3 Q. OK. And as a result he can't go to Mexico, is that right?

4 A. That's correct; not using those passports, at least.

5 MR. BRANDEN: Judge, I've been handed a list of
6 questions that I would like to review before continuing. Can
7 we break at this point?

8 THE COURT: All right. We'll break now.

9 Remember the instructions. Don't do any research.
10 Don't talk about the case. Keep open minds. We'll see you
11 tomorrow morning at 9:00. Safe home tonight. Thank you.

12 (Continued on next page)

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K2oWsch6

1 (Jury not present)

2 THE COURT: You can step down. Thank you very much.
3 Don't talk with the government attorneys.

4 THE WITNESS: Yes. Yes, your Honor.

5 (Witness not present)

6 MR. BRANDEN: I was going to make that request, Judge.

7 THE COURT: Pardon me?

8 MR. BRANDEN: I was going to ask you to advise him.

9 THE COURT: I knew you were. I jumped ahead.

10 Please be seated.

11 Mr. Laroche, Mr. Kamaraju, Mr. Denton, can you tell me
12 where we are in terms of witnesses?

13 MR. LAROCHE: Yes, your Honor. We have two witnesses
14 after Mr. Evanchec, one of the cooperating witnesses and one
15 more FBI agent. We expect to rest tomorrow.

16 THE COURT: OK. And the defense.

17 MS. SHROFF: We expect them to rest tomorrow, your
18 Honor.

19 THE COURT: How about you?

20 MS. SHROFF: No, we're not going to.

21 THE COURT: I want to tell the jury what the
22 schedule's going to be.

23 MS. SHROFF: OK. That's fine. We're not going to
24 rest tomorrow. I think we have at least a Wednesday and
25 Thursday defense case.

K2oWsch6

1 THE COURT: When should we get together for the jury
2 charge, then?

3 MS. SHROFF: I don't know. I left Mr. Zas in charge
4 of the jury charge, so, I mean, I could find out from him and
5 let you know. Does the Court have a preference?

6 THE COURT: I'd like to do it as close as possible to
7 when you're going to do the summations so it all gets timed
8 together.

9 MS. SHROFF: If I may just update the Court. May I?

10 THE COURT: Yes.

11 MS. SHROFF: I gave a list of witnesses, because you
12 know the CIA witnesses won't talk to us directly, so we've gone
13 through Mr. Kamaraju here, who is playing travel agent for us.
14 We've given him the first batch of people. They're going to be
15 short because we've never spoken to them. This is a first for
16 me, to call witnesses I've never spoken to, but that's where we
17 are. I think at least Wednesday we will definitely have CIA
18 witnesses, possibly Thursday, but I don't see fact witnesses
19 into the next week at all.

20 I've informed the government that I'm not sure about
21 whether or not we will be calling Dr. Bellovin, so I think it's
22 a shorter case for the defense. We may still call a
23 classification expert, which is Mr. Mort Halperin. But I think
24 at the latest we should be done sometime early next week, the
25 defense should be done, unless Mr. Schulte decides to take the

K2oWsch6

1 stand.

2 THE COURT: Oh, OK. So I should tell the jury that
3 this trial, which we said was going to take three or four
4 weeks, is Circuit going to take five weeks.

5 MS. SHROFF: Is that right?

6 THE COURT: We're in our fourth week.

7 MR. BRANDEN: We're in our fourth week, and I think
8 that that's the safest, most prudent thing to say to the jury
9 at this point.

10 THE COURT: Yes.

11 MS. SHROFF: Look, it may go a lot faster. Honestly,
12 I don't know. Maybe we'll be done by Wednesday. I have really
13 tried to keep the list short. I asked the government, I've
14 offered to work out a stip on some of them, and I really think,
15 if they're planning not to cross, the direct should be no more
16 than, like, 15 minutes each.

17 THE COURT: OK. I don't know what they're going to
18 say in 15 minutes, but all right.

19 MS. SHROFF: I could tell you in a sidebar what I hope
20 they will say.

21 THE COURT: Yes, I'd like to hear that.

22 MS. SHROFF: OK. They're not coming along, right?

23 THE COURT: No.

24 MS. SHROFF: OK.

25 (Continued on next page)

K2oWsch6

1 (In open court)

2 THE COURT: I guess we'll just have to do the best we
3 can as the situation has evolved, I think it would be wise if
4 everybody gets their charges ready by Wednesday.

5 MR. LAROCHE: Yes, your Honor.

6 THE COURT: The government's pretty far along with the
7 charges.

8 MS. SHROFF: Your Honor, we gave you our jury charge.
9 We filed on ECF jury charges.

10 THE COURT: Yes, you did.

11 MS. SHROFF: OK.

12 THE COURT: Anything else to take up?

13 MS. SHROFF: No, your Honor.

14 MR. LAROCHE: No, your Honor. Thank you.

15 THE COURT: Thank you. See you tomorrow.

16 (Adjourned to February 24, 2020, at 9:00 a.m.)

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RICHARD JOHN EVANCHEC

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GOVERNMENT EXHIBITS

Exhibit No.	Received
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1623 through 16442249
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1350-13532268
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