

1 that happened on 6 September 2011. Did you have the opportunity
2 to watch that interview?

3 A. Yes, ma'am.

4 Q. And did Major Golsteyn admit to assassinating anyone?

5 A. Yes, ma'am.

6 Q. Lastly, after more than two years of investigation a
7 lot of work on your part, what did CID's investigation
8 ultimately conclude?

9 A. We put the product together, coordinated with the
10 Staff Judge Advocate, and there was probable cause existed that
11 Major Golsteyn had committed the offenses of murder and
12 conspiracy.

13 REC2: Thank you. I don't have any more questions at
14 this time. Defense probably will.

15 WIT: Yes, ma'am.

16 **CROSS-EXAMINATION**

17 **Questions by the respondent counsel:**

18 Q. So, before I get too deep into it probable cause was
19 established, whose opinion was that?

20 A. That was the Staff Judge Advocate, sir.

21 Q. Who?

22 A. Captain Christopher Malis.

23 Q. That's who wrote the opinion letter?

1 A. I believe it was, sir. I did PCS, sir, and I was not
2 here for the closure of the investigation.

3 Q. So, did you see the letter?

4 A. No, sir.

5 Q. Somebody just told you that?

6 A. It's actually in the report, sir, and closed out as
7 founded. So, that's just per the report, sir.

8 Q. So, did you see the letter?

9 A. I don't believe I seen the letter, sir.

10 Q. So, somebody just told you about it?

11 A. I'm just telling you, sir. That the PC opinion came
12 in and that's why we have a final report that shows founded. I
13 didn't see the letter that I can recall, sir.

14 Q. So I'm going to stick with just the probable cause
15 thing for a minute.

16 A. Yes, sir.

17 Q. It was closed. Did you ever see the letter?

18 A. No, sir, I wasn't here for the closure of the
19 investigation.

20 Q. Okay. So, somebody just told you about it?

21 A. Nobody told me about the letter, sir. I saw the final
22 report that it was closed. It was closed founded.

23 Q. Okay. So the probable cause thing that we were just
24 talking about ----

1 A. It has to be, sir, based off of CID reports. When a
2 report is founded, unfounded, or insufficient evidence, they go
3 to the SJA and per the final report they coordinated with the
4 SJA and they received probable cause.

5 Q. So the lawyer behind you, Lori Lincoln, are you sure
6 she's not the one who signed it?

7 A. To be honest with you, sir, I cannot recall.

8 Q. Would that shock you that she's the one that founded
9 probable cause and then she's in here advising the two lawyers
10 that are presiding over this board today?

11 A. I can't say, sir.

12 Q. Okay. So, I'm going to stop and start over, okay?

13 A. Yes, sir.

14 Q. A CID agent for seven years. Did you do anything
15 before that?

16 A. I was -- In the Army, sir?

17 Q. Yeah.

18 A. I was Field Artillery. I came into the Army as Field
19 Artillery and then I came into Korea and I did an internship
20 with CID for just over a year, sir.

21 Q. Okay.

22 A. I continued with Field Artillery and then I moved over
23 to CID.

24 Q. And what was the drive to become a CID agent?

1 A. I was a police officer for a short time before I came
2 into the military, sir. I had the drive to do law enforcement,
3 and then I ended up joining the military and I just -- I enjoy
4 law enforcement.

5 Q. Was that kind of the ultimate goal of joining any way
6 was to, you know, if you weren't going to be able to do it in
7 the Army maybe get out and do law enforcement afterwards?

8 A. Actually, no, sir.

9 Q. So why pick it then, is it just because you were
10 interested in it?

11 A. I was interested in law enforcement before I came into
12 the military. When I came in I didn't like the patrol officer
13 job, so, I came in, didn't want to do MP and came into Field
14 Artillery. When I was in Korea, sir, you know, you keep hearing
15 the story of CID's everywhere and you start hearing and so I
16 started asking the question of what CID was, and it sounded good
17 to me, sir, that they do felony investigations and it appealed -
18 - it appealed to me. So, I looked into it and I asked to do an
19 internship based off of my commander and allow me to see if it
20 was something that I enjoyed, sir.

21 Q. What was your first CID assignment after your
22 internship?

23 A. My first CID assignment was at Fort Lewis, sir,
24 Washington.

1 Q. And when did you get there?

2 A. I got there I believe it was April or May of 2008,
3 sir.

4 PRES: Speak up.

5 WIT: I apologize. I believe it was April or May of 2008,
6 sir.

7 Q. And ----

8 A. I graduated in April.

9 Q. And was coming to Fort Bragg just a natural rotation
10 for you or is there something that brought you here?

11 A. What brought me here, sir, was when I was in -- I was
12 in Belgium, I was doing protection for the SACEUR. I had
13 dropped my warrant officer packet and at that time I had to come
14 back home and they offered me a couple of positions and I came
15 back here, sir, or I chose Fort Bragg.

16 Q. Okay. And were there a couple of positions at Fort
17 Bragg at the time, do you remember?

18 A. What do you mean, sir?

19 Q. Openings?

20 A. Oh, yes, sir.

21 Q. It was a tough time at Fort Bragg CID when you got
22 here, right?

23 A. Yes, sir.

24 Q. Was the office still in disarray when you showed up?

1 A. It was difficult, sir.

2 Q. So, when you got here the office had gone through a
3 huge investigation where agents were relieved for misconduct and
4 all kinds of things, right?

5 A. Yes, sir.

6 Q. When you showed up and you said you were a team chief,
7 how many folks were in the office at the time? Were there still
8 several or was it pretty lonely?

9 A. There were still a lot, sir. Obviously we were short.
10 A lot of our people were working at battalion at the time.

11 Q. And when you talked with Special Agent Weston, he was
12 the SAC, right?

13 A. Yes, sir.

14 Q. When you checked in he talked to you, didn't he about
15 the importance of sort of getting the reputation of the office
16 back?

17 A. Yes, sir.

18 Q. And that was important?

19 A. Yes, sir.

20 Q. Is it fair to say that probably before you got here,
21 but the CID Office was still in a sort of a quest for rebuilding
22 its trust at Fort Bragg? Is that fair?

23 A. I don't know how to answer that, sir, because I wasn't
24 here for it. I can just say that I know that we were

1 rebuilding. I'm not sure about trust because I don't know what
2 occurred, everything that occurred, sir. I kind of kept my nose
3 out of it, sir.

4 Q. I mean, you know what happened though, right?

5 A. Actually I don't know everything that occurred, sir.

6 Q. You know the ----

7 A. The basic ----

8 Q. ---- gist of it though, right?

9 A. ---- stuff, yes, sir. Yes, sir.

10 Q. So it was important I think you would agree that for
11 Special Agent Weston to, I guess, rebuild that office in a
12 credible way?

13 A. Yes, sir.

14 Q. And is it also fair to say that this case was sort of
15 the first big case that had come up, or substantial case that
16 came up since the debacle at the agency?

17 A. I would say so, sir, because we had only been there
18 for a short time.

19 Q. And you got assigned the case. How long had you been
20 at Fort Bragg when you got assigned the case?

21 A. I believe I had been at Fort Bragg, sir, approximately
22 two months, two and a half months.

23 Q. And had you been stationed here before?

24 A. No, sir.

1 Q. I know a lot of times when I've PCS'd at different
2 times, you know, finding the gym takes 2 months. Were you still
3 kind of learning your way around Fort Bragg?

4 A. Yes and no, sir. Bragg is a pretty busy office and so
5 you get out and about a lot. But, yes.

6 Q. When you checked in with Special Agent Weston, did you
7 guys talk about the importance of doing a good investigation?

8 A. Yes, sir.

9 Q. And inside of those good investigations, it's
10 important for the investigation to be complete?

11 A. Yes, sir.

12 Q. For the, who knows what the witnesses are going to
13 say, but as far as everything that is contained in the
14 investigation for everything to be truthful that the agents are
15 putting in?

16 A. Yes, sir.

17 Q. For everything to be verified? Is that fair?

18 A. Yes, sir.

19 Q. Unbiased?

20 A. Yes, sir.

21 Q. And I mean those are really all the things that we
22 want in a good investigation?

23 A. Yes, sir.

1 Q. When you talked to Special Agent Weston about this
2 case did he give you any guidance?

3 A. Yes, sir. We sat down in his office. I believe we
4 actually had a few of the other senior leaders in the office and
5 he just gave me a breakdown of what occurred as far as the CIA
6 letter they received, the agent's coordination up there for the
7 interview, and he just said that, Adam, we need to handle this
8 to a T. So, he gave me that guidance, sir, to make sure that
9 was the primary focus.

10 Q. So, they would want everything included, nothing
11 omitted, and everything double checked, fair?

12 A. Not said, but yes, sir.

13 Q. Okay. So, I want to start at the beginning. You got
14 brought in on this. Somebody had already seen this video?

15 A. Yes, sir.

16 Q. Did you go see what was on the video before you
17 started your investigation?

18 A. No, sir.

19 Q. Can we agree that that would have been probably the
20 best thing to do?

21 A. Yes, sir.

22 Q. When you reflect back on the things that Special Agent
23 Weston told you was in the video, you included that in your

1 investigative actions, correct? And I might be using the wrong
2 term. It's a ----

3 A. Agent's Investigation Report?

4 Q. Yeah, I was using an NCIS term. I'm sorry. So, yes,
5 an Agent Investigative Report?

6 A. Some of those, sir. So, can you reword that question,
7 sir?

8 Q. Sure. So, there are agent investigative reports that
9 are part of this overall investigation?

10 A. Yes, sir.

11 Q. When you read through those it's important for those
12 to be accurate?

13 A. Yes, sir.

14 Q. All the agents believe that that is true?

15 A. Yes, sir.

16 Q. And you've had the opportunity to review the ones that
17 others did like Special Agent Jackson?

18 A. Yes, sir.

19 Q. Is it fair to say that when you review those AIRs now,
20 let me back up. I'm sorry. If you review those AIRs today,
21 there are things that are contained in there that you have since
22 learned are incorrect, true?

23 A. You would have to tell me what you are talking about,
24 sir. It's not Agent Jackson's.

1 Q. I'll give you an example. Well, it's yours right?

2 A. Yes, sir.

3 Q. Okay. So, for example there's a remark in the first
4 exhibit, the first AIR that says Captain Golsteyn related in the
5 interview that after the interview of Rasoul, he and another
6 Marine took Rasoul back to his residence and assassinated him.
7 That's in your investigation, right?

8 A. That was in Agent Jackson's AIR.

9 Q. Your investigation though?

10 A. Within the investigation, yes, sir.

11 Q. You never went back and corrected that, right?

12 A. No, sir.

13 Q. And that's not correct?

14 A. Based off of what I heard from Captain Golsteyn in the
15 video, no, sir.

16 Q. And anything else that you've looked at in this case
17 that doesn't make sense either, does it?

18 A. Does not go with it, no, sir.

19 Q. Okay. Can we agree that when you find that there's an
20 incorrect statement in the investigation it would be important
21 to go back and either correct it or annotate some place that
22 there's incorrect information in the investigation?

23 A. Yes, sir.

1 Q. Things like that statement, Captain Golsteyn took a
2 detainee back to his house and assassinated him, that repeated
3 itself over, and over, and over again in the investigation,
4 didn't it?

5 A. Took him back to his residence, sir?

6 Q. Yes.

7 A. No, sir.

8 Q. So, I'll ask you to just think back about the, and
9 there's a term and I don't know what it is, but the requests
10 that you send out for other CID offices to help you?

11 A. Yes, sir, request for assistance.

12 Q. Okay. An RFA then?

13 A. RFA, yes, sir.

14 Q. Okay. Isn't it true that in those RFAs that went out
15 of your office, signed by you or not, that went out of your
16 office restate this incorrect language?

17 A. If you could show me one, sir, and then I could verify
18 that yes.

19 RESP Cc: May I have a moment, sir?

20 PRES: Sure.

21 [There was a brief pause while the respondent's counsel
22 retrieved the exhibit and handed it to the witness.]

23 RESP Cc: We can make this an exhibit if you want, sir, but
24 I'm just going to show him if that's all right with you?

1 PRES: I would like you to make it an exhibit.

2 RESP Cc: Okay, sir. So, I don't know what you want us to
3 call it Respondent Exhibit, or I know they have been using the
4 term Prosecution Exhibit, usually it's ----

5 REC2: Defense exhibit.

6 RESP Cc: Okay.

7 PRES: Excuse me?

8 REC2: It will be Defense exhibit, sir.

9 RESP Cc: Awesome.

10 PRES: Defense exhibit. Okay.

11 RESP Cc: So, I will have you take a look at that and then
12 I'll write something on the bottom of it.

13 PRES: Okay.

14 **Questions continued by the respondent counsel:**

15 Q. You are welcome to read it all, but it's about two-
16 thirds of the way down.

17 A. Yes, sir.

18 Q. So, in this ----

19 REC2: I'm sorry, Mr. Stackhouse.

20 RESP Cc: Sure, it's the 26th June 2012. And you can
21 certainly have it when you are doing redirect if you want. I'll
22 give it to you.

23 REC2: Sir, would you like copies before this?

24 PRES: Yes.

1 **Questions continued by the respondent counsel:**

2 Q. So, in that particular, just for an example, that's
3 one, but in that one the allegation that you put out is that
4 Major Golsteyn and two other members of his team took Rasoul
5 back to his home, terminated his life, and buried him.

6 A. Yes, sir.

7 Q. Okay. That's not correct with the ----

8 A. No, sir.

9 Q. ---- evidence that's been put out, right?

10 A. No, sir.

11 Q. And that was June 26th 2012, right?

12 A. Yes, sir.

13 Q. And that was after you had even watched the video?

14 A. Yes, sir.

15 PRES: Is that the end of your questioning on that?

16 RESP Cc: On that particular one, yes, sir. I'm not going
17 to put it back in my binder though.

18 PRES: Okay. I would like to see it and so, I would
19 like to take a short break so that we can distribute copies of
20 it.

21 RESP Cc: That would be great, sir. I'm going to have more
22 of them though, so do you want to save up?

23 PRES: How many more do you have?

1 RESP Cc: We will probably be beating a dead horse after
2 two or three, but there's several. I'll probably give him three
3 total.

4 PRES: Is it possible for you to make copies of all
5 three at one time and distribute those to us so we don't
6 interrupt?

7 RESP Cc: Yes, sir. Do you want to do that now or do you
8 want to ----

9 PRES: Yep. We are going to do that now. So, this
10 hearing is in recess for, how many minutes do you need?

11 RESP Cc: Most of the time I put this up on a display so I
12 don't even know where the copy machine is here, sir.

13 REC2: I'll make sure ----

14 PRES: We can make sure.

15 RESP Cc: Two or three minutes?

16 REC2: Probably five.

17 PRES: All right.

18 RESP Cc: Okay.

19 PRES: This hearing is in recess for five minutes and
20 we'll reconvene at 1825 hours in unclassified session.

21 **[The board of inquiry recessed at 1820, 23 June 2015.]**

22 **[The board of inquiry was called to order at 1830, 23 June**
23 **2015.]**

1 PRES: The board is called back to order at 1830 local
2 time, 23 June. I believe that in the break period we had copies
3 made of defense counsel items.

4 RESP Cc: Yes, sir, Exhibit A, sir.

5 PRES: Okay. I've got them.

6 RESP Cc: I'll just hand you those Special Agent Armstrong.

7 WIT: Yes, sir. Thank you, sir.

8 RESP Cc: That's Exhibit A.

9 REC2: Sir, are they in order how you were addressing
10 them?

11 RESP Cc: They are all in the same order. Yes, ma'am.

12 REC2: Thank you.

13 PRES: Okay.

14 **CROSS-EXAMINATION (CONTINUED)**

15 **Questions continued by the responded counsel:**

16 Q. So there's five of them there. Would you agree with
17 me that there's more than five in the investigation?

18 A. Yes, sir.

19 Q. And they are all essentially the same?

20 A. Yes, sir.

21 Q. So I would just direct you to Paragraph 3 of each of
22 those and you can look through them if you want to?

23 A. Yes, sir. I'm good, sir.

1 Q. Okay. Is it fair to say that it's got wrong
2 information in Paragraph 3 ----

3 A. Yes, sir.

4 Q. ---- in each of them?

5 A. Yes, sir.

6 Q. I know I do this as much as I can but I cut and paste
7 a lot, but is that something that happens when you guys ----

8 A. Yes, sir.

9 Q. ---- do this? Can we agree that that's probably not
10 the best practice?

11 A. Yes, sir.

12 Q. So, Special Agent Weston, is he the one who started
13 this or how did this ----

14 A. What do you mean started?

15 Q. For CID Fort Bragg?

16 A. So, what happened, sir, is the CIA -- it went through
17 CID Command and CID Command sends us what's called a request for
18 investigation, RFI. That came through command. It goes through
19 our Group, which is 3rd Group based out of Hunter Army Airfield,
20 sir, which then goes to our battalion, 10th MP Battalion, here
21 on Fort Bragg and then it gets disseminated down to Mr. Weston.
22 So, it is a bit of a process, sir.

23 Q. Sort of a trickle down?

24 A. Yes, sir.

1 Q. Yeah. So, when it comes in to Special Agent Weston he
2 obviously did some investigation on it before he gave it to you?

3 A. No, sir.

4 Q. I thought you had said that he went up to the Agency
5 and watched a video?

6 A. No, sir. That was Agent Jackson.

7 Q. I apologize.

8 A. He's the one that did the initial AIR, sir, that wrote
9 that information.

10 Q. You're right. I apologize for that. So, let's talk
11 about the first witness interview. Do you know who the first
12 person that was talked to?

13 REC2: I'm sorry, Mr. Stackhouse. I hate to interrupt
14 your line of questioning, but Exhibit Alpha, sir, contains
15 references to a polygraph examiner. The defense has offered
16 evidence of a polygraph examination, that a polygraph was taken.
17 The government did not introduce that. Sir, at this time the
18 defense has consented to talking about a polygraph examination
19 under the plain reading of 15-6, Paragraph 3-7(c).

20 RESP Cc: I didn't consent to anything, sir. I am
21 introducing this for Paragraph 3 and if we want to go through
22 and redact everything I'm happy to go back and do that if you
23 would like, sir.

24 REC: Sir, it's already before the board.

1 PRES: I recognize that it's before the board and I
2 recognize that the defense is introducing discrepancies in
3 Paragraph 3 of these documents. Is that true?

4 RESP Cc: Yes, sir. I mean, I was just going to show the
5 special agent. I wasn't going to introduce them into evidence
6 anyway. I know that the board wouldn't -- that's okay. I don't
7 mind. I mean, the only reason I'm introducing them is that
8 there is incorrect information in what they are disseminating.

9 PRES: Just so I can be clear, in this Paragraph 3s, the
10 incorrect information that you are trying to point out that is
11 in Paragraph 3 is what exactly?

12 RESP Cc: Yes, sir. That Major Golsteyn admitted Rasoul
13 was taken back to FOB McQueary for interrogation purposes which
14 met with negative results. Major Golsteyn and two members of
15 his team took Rasoul back to his home, terminated his life, and
16 buried him.

17 PRES: So you are disputing what, exactly?

18 RESP Cc: What they are alleging, yes, sir. And there is -
19 ---

20 PRES: You are alleging all of Paragraph 3 is incorrect,
21 or just part of it?

22 RESP Cc: I'm only talking to him about that piece of it.

23 PRES: Okay. So, you are objecting as incorrect to
24 exactly what?

1 RESP Cc: This may be becoming too big of a deal, sir. All
2 I was trying to point out was that it's important to conduct a
3 thorough investigation, to be accurate in what you are
4 reporting, and that you know, here are five very simple examples
5 of where inaccurate reporting took place that nobody double
6 checked and it alleges a murder which is not what anything about
7 what Major Golsteyn said. And this is not what he said
8 happened, but this is what they are saying Major Golsteyn
9 happened.

10 PRES: I think I understand that. I understand your
11 objection as well. I'm taking these, what do we call them
12 exhibits? Exhibits in terms of Paragraph 3 and ----

13 REC2: Sir?

14 PRES: Yes.

15 REC2: At this time, sir.

16 PRES: Yep.

17 REC2: This exhibit will be made part of the record.
18 There's a reference to a polygraph examiner in these exhibits.

19 PRES: Uh, huh.

20 REC2: The government did not introduce that
21 information. That is evidence of taking a polygraph
22 examination. I would please ask you to consult with your legal
23 advisor in regards to what this means.

24 PRES: Okay. Tom, what does this mean?

1 LA: Sir, the defense can withdraw these documents and just
2 read onto the record the discrepancies and discuss that with
3 this witness. These documents, if admitted into evidence, can
4 be used to discuss the taking of a polygraph. So, in the
5 alternative that Mr. Stackhouse alluded to, it didn't seem as
6 though he necessarily intended to admit these as exhibits.
7 Withdraw them. Don't admit them as a whole document on the
8 record and then just discuss with the witness any discrepancies
9 in the CID paperwork. I believe he already read onto the record
10 the sentence or two that had the reference he is claiming is
11 inaccurate.

12 RESP Cc: That's okay with me, sir. I mean, like I said I
13 didn't want them to be -- necessarily be exhibits any way. My
14 point was to point out that there's incorrect information in the
15 investigation. So, I'll leave it to your discretion, although
16 it was pointed out to me, I think, although I'm not sure because
17 I don't know if I got a copy of it or maybe I did, I thought
18 that the recorders introduce an exhibit out of the CID
19 investigation that is labeled Exhibit 1. I don't know what
20 exhibit number it came out for the board here. I don't know if
21 you guys introduced that or not.

22 REC2: What exhibit, sir? Dated what, sir?

23 PRES: So, there's a question of numbering. Is that
24 what it is?

1 RESP Cc: Well, no, I just -- I didn't get a copy of, I
2 don't think, unless this is the only -- if this is the only AIR
3 that was introduced ----

4 REC2: That's the only AIR.

5 RESP Cc: Okay.

6 REC2: And to clarify, sir, I believe I attempted to
7 introduce it and you did not rule on whether it was admitted
8 formally.

9 PRES: Well, at some point in time we are going to have
10 to rule on that one way or another. I'll leave that up to your
11 discretion on when we do that. However, for this point in time
12 with this issue at hand my determination is, is that, Mr.
13 Stackhouse that you reference into the record the parts of
14 Paragraph 3 that are relevant to the argument that you are
15 making and that we not admit the entire set of documents in
16 because of the reference in Paragraph 2.

17 RESP Cc: Yes, sir, that's fine.

18 PRES: Okay.

19 REC: Sir, it's getting late so I don't know if I am going
20 to articulate this as clearly as I would like to. But for the
21 record, sir, it's the government's position that after
22 referencing a poly himself, a polygraph examiner, repeatedly and
23 then introducing documents referencing a polygraph examiner that

1 the respondant has waived his right prohibiting us from talking
2 about, at this point the taking of a polygraph examination.

3 PRES: I do not think at this time that he has waived
4 his right; however, I'll take that under advisement and if there
5 continues to be this issue I will re-entertain that objection.

6 REC: Understood, sir.

7 RESP Cc: So, do you want me to collect all of these back
8 then, sir, or ----

9 PRES: Yes.

10 RESP Cc: ---- I don't know what you want to do?

11 PRES: Yes. Please collect them back and you can
12 reference the relevant parts of the pages.

13 RESP Cc: Okay.

14 [The counsel for the respondant retrieved the exhibit from the
15 witness and the board members.]

16 **Questions continued by the responded counsel:**

17 Q. So we were talking about the general nature of the
18 allegation.

19 A. Yes, sir.

20 Q. Correct?

21 A. Yes, sir.

22 Q. And as it pertains to the requests for assistance that
23 were put out of your office, they contained incorrect
24 information as to the nature of the allegation, correct?

1 A. That information you put out, yes, sir.

2 Q. And that information was that Major Golsteyn took a
3 detainee back to his house and killed him?

4 A. Yes, sir. That was based off of Agent Jackson's
5 review of the video.

6 Q. And you've had the opportunity to review it since?

7 A. Yes, sir. Twice.

8 Q. And part of that was after at least June 26th, 2012,
9 right?

10 A. Yes, sir. To be honest with you it is my fault that I
11 did utilize the same one and then I adjusted Paragraph 4 and
12 after.

13 Q. And can we agree that when incorrect information gets
14 disseminated that it creates problems for other agents that are
15 trying to assist you?

16 A. Based off of what there could be, yes, sir.

17 Q. So, I want to come back now to the witness issue.
18 First witness interviewed in this case?

19 A. First witness, sir? That's kind of broad. I would
20 have to look back at the notes, sir, to see who was the first
21 witness.

22 Q. So, let me talk to you about Russ Hubbard.

23 A. Yes, sir.

24 Q. Do you know who that is?

1 A. Yes, sir.

2 Q. So he was interviewed at Fort Bragg?

3 A. Yes, sir.

4 Q. And who interviewed him?

5 A. I did, sir, with another agent in the room with me.

6 Q. And what date was that?

7 A. I'm not sure, sir. I believe it was end of November
8 beginning of December if I remember correctly.

9 Q. Uh, huh. And is he one of the first witnesses that
10 were interviewed?

11 A. Yes, sir.

12 Q. Is it fair to say that nowhere in your report is that
13 interview disclosed or covered?

14 A. That interview is in there, sir.

15 Q. And you think it was when?

16 A. I'm guessing right now, sir, I can't give accurate
17 dates. I would have to look at it.

18 Q. Was it before or after talking to Major Golsteyn?

19 A. Oh, it was after, sir.

20 RESP Cc: One moment, sir?

21 PRES: Yep.

22 [There was a brief pause while the respondent's counsel
23 conferred.]

1 Q. Was it Special Agent Jackson who interviewed you with
2 him?

3 A. No, sir, Agent Rodney Little.

4 Q. Little. I'm sorry.

5 A. Yes, sir.

6 Q. So, Little knows -- Special Agent Little knows Russ
7 Hubbard, correct?

8 A. I mean, I would assume so, sir, he was in there but I
9 can't speak for Agent Little.

10 Q. You know that Hubbard was getting out of the Army the
11 day of that interview?

12 A. I believe we did go -- I believe we did go over it,
13 sir.

14 Q. And you know that the call was made that he could
15 either return back from his departure from Fort Bragg in route
16 to Tennessee, or you all would show up at his house with the
17 FBI? Were you in on that phone call?

18 A. I may have made a phone call. I would never threaten
19 that, sir. That's not the way I put things out.

20 Q. He didn't drive himself to CID, right?

21 A. To be honest with you, sir, I cannot recall how he got
22 there.

23 Q. Well, isn't it true that you told him to meet you at a
24 grocery store parking lot off of base?

1 A. That doesn't sound -- No, sir.

2 Q. And put him in a sedan?

3 A. Not that I can recall, sir.

4 Q. That would be strange if that took place?

5 A. That would be strange and I would document that.

6 RESP Cc: Right. So, again, I'm not introducing this into
7 evidence, sir, I'm just going to have the agent point out to me
8 something in the investigation, okay?

9 PRES: Okay.

10 Q. I'm going to hand you a copy of the CID investigation
11 that I was given.

12 A. Yes, sir.

13 Q. It's in the order that I received it, so I don't know
14 anything else about it other than what I got.

15 A. Yes, sir.

16 Q. Can you show me where the first interview of Russ
17 Hubbard is documented?

18 [There was a brief pause while the witness reviewed the file.]

19 A. 5 December '11, sir.

20 Q. When did you interview Major Golsteyn?

21 A. 29 November '11, sir.

22 Q. So it was actually after not before?

23 A. That's what I said before. You asked me if I
24 interviewed him before and I said no.

1 Q. Okay. So, do you think there were any other
2 interviews that were done with him?

3 A. Yes, sir. I also interviewed him again telephonically
4 later in February.

5 Q. So how long was the interview with Russ Hubbard,
6 roughly?

7 A. The first one in December, sir?

8 Q. Uh, huh.

9 A. I kind of remember the interview. I would ----

10 Q. Hours?

11 A. ---- just be guessing, sir. I mean, an hour to two
12 hours, I'm guessing, sir.

13 Q. Okay. Could it have been several hours?

14 A. I would have to look at my AAS entry, sir, because I
15 document the timeframe that I interview somebody.

16 Q. And was he told that there were people watching a
17 video of his interview with you all?

18 A. I probably -- Possibly, sir. Well, not video, we have
19 an observation room and I know Captain Lieb from SJA was in and
20 out so I can't recall if it happened on this time, but I did
21 notify him them that ----

22 Q. Did you all tell him that other higher ups would be
23 looking at it as well?

24 A. Possibly, sir.

1 Q. Like, the Commanding General of CID and things like
2 that?

3 A. No, sir.

4 Q. That the interview is being streamed to high level
5 people?

6 A. No, sir.

7 Q. Were you in there the whole time he was being
8 interviewed?

9 A. I believe so, sir. I believe I ran the interview and
10 Agent Little was just sitting there, if I remember correctly.

11 Q. So, by the time you had your first briefing with 3rd
12 Special Forces Group, about how many people had you interviewed?
13 I can't remember what date you interviewed them first.

14 A. Nobody, sir.

15 Q. Nobody?

16 A. We were just doing our background until then.

17 Q. Okay.

18 A. I set up for interviews, sir, in those RFAs they were
19 setting up -- I was setting up interviews to do them
20 simultaneously, but no interviews had been conducted.

21 Q. Do you remember intimating to the 3rd Group SJA that
22 you had information beyond what was in the interview that
23 implicated Major Golsteyn?

1 A. It would be based on what they were saying. I'm not
2 too sure, sir.

3 Q. Okay.

4 A. We are talking about a brief three and a half years
5 ago.

6 Q. Right. So, I'm trying to get to the content of the
7 brief.

8 A. Absolutely, sir.

9 Q. Did you tell her that you had independent
10 corroboration of these allegations?

11 A. I don't know who "her" is, sir. I believe it was all
12 males in there. Are you talking about Captain Amy Walters, the
13 SJA?

14 Q. Yeah. Walters. Wasn't she in there?

15 A. She was in there. She was the one that briefed me --
16 met me outside, sir.

17 Q. Okay. And didn't you tell her and others with her
18 that you had independent witnesses that corroborated these
19 allegations?

20 A. There would be no reason for me to say that, sir. I
21 hadn't interviewed anybody.

22 [There was a brief pause while the respondent's counsel reviewed
23 his notes.]

1 Q. So, I want to stick with Major Walters for just a
2 minute, or Waters. Okay?

3 A. Oh, Captain Walters.

4 Q. The SJA.

5 A. The SJA, yes, sir.

6 Q. She got promoted and she changed her name and it's
7 very confusing.

8 A. I apologize, sir. I didn't know her afterwards.

9 Q. Right. Any doubt in your mind whether you told her
10 that Marine statements implicated Major Golsteyn in a murder?

11 A. No doubt in my mind, sir. I hadn't interviewed
12 anybody.

13 Q. No, I understand that.

14 A. I would not tell somebody that, sir.

15 Q. So your thoughts about if she comes in and says that's
16 exactly what you told her?

17 A. I would tell her her integrity is in check, sir.

18 PRES: Repeat that. I couldn't hear that.

19 WIT: That her integrity is in check, sir, because I never
20 stated that.

21 Q. You watched the video you said, right?

22 A. Yes, sir.

23 Q. How many times have you seen it?

24 A. Twice, sir.

1 Q. And when is the last time?

2 A. I went with -- I'm not sure when that was, sir. It's
3 documented in the AAR. I'm not sure. I think it was spring of
4 '12, fall of '12.

5 Q. February'ish, maybe March of '12?

6 A. That's the first time I went, sir.

7 Q. Okay. So, then you went again a few months later?

8 A. Yeah, it was -- I can't give you a set timeframe, sir.
9 It is documented though.

10 Q. One of the things that you have in one of the exhibits
11 is that Major Golsteyn stated that he shot somebody face-to-
12 face. Do you remember writing that?

13 A. Yes, sir.

14 Q. When you are listening to the video he never says he
15 shot somebody face-to-face. Those are your words, correct?

16 A. It might be my words, sir. He said that he came up on
17 him. He looked at him. He knew and he said he shot him and he
18 knew he was dead.

19 Q. I am kind of hunting and petting around, okay?

20 A. Oh, I understand.

21 Q. So during your investigation you did a write-up of the
22 interview that was conducted with Major Woodruff. Do you
23 remember that?

24 A. Yeah. When I went out there? Yes, sir.

1 Q. Right. And did you personally interview him?

2 A. The second interview, yes, sir. The first time was

3 NCIS.

4 Q. And which one was videotaped?

5 A. The first one, sir, by NCIS.

6 Q. And did you watch that video?

7 A. I believe I did, sir, but I can't tell you yes or no.

8 Q. Well, can we agree that it would be important to watch

9 the video ----

10 A. Absolutely, sir.

11 Q. ---- before you went out there?

12 A. Absolutely, sir.

13 Q. Major Woodruff never told you that he rarely went out

14 on mission with Major Golsteyn, did he?

15 A. I believe he did.

16 Q. He didn't tell you that they were joined at the hip,

17 that he went everywhere with him?

18 A. No.

19 Q. And but you don't know if you watched the video?

20 A. I'm trying to remember, sir. I believe I did but I

21 cannot recall for sure, but as far as when I talked to him he

22 did not say that, sir.

1 Q. And again I'm kind of hunting and pecking around but
2 you had somebody go out and do some interviews in Afghanistan,
3 correct?

4 A. Yes, sir.

5 Q. And they went out and did some forensic digs of some
6 sort?

7 A. Yes, sir.

8 Q. And those were real, true, forensic digs?

9 A. The best that they could possibly do.

10 Q. And they found zero, correct?

11 A. Yes, sir.

12 Q. I know they said they didn't do a Shura but they
13 actually interviewed tribal elders and officials in southern
14 Marjah, correct?

15 A. They didn't interview tribal elders, sir. They
16 interviewed an ex-tribal elder, Mohammed Asiff who was then the
17 Police Chief, and I think they interviewed his deputy as well or
18 something to that effect.

19 Q. Okay. So these are ex-elders but now they have a more
20 significant role as the Police Chief and the Deputy Police
21 Chief?

22 A. Absolutely, sir.

1 Q. In the interviews with those individuals they told you
2 that this Rasoul individual was still alive? Or, not you but
3 they told the people that were interviewing them ----

4 A. Mr. Asiff did say that. Yes, sir.

5 Q. Right. That he was still alive?

6 A. Yes, sir.

7 Q. That he wasn't engaging in any terrorist acts anymore?

8 A. Well, he just said that he was up north.

9 Q. Up north.

10 A. He didn't say about -- I don't remember about the
11 terrorist but yeah, he said he was up north.

12 Q. And this is the same person that Major Golsteyn
13 supposedly killed. Is that right?

14 A. I don't know, sir. He gave a couple different names.
15 I can't say that.

16 Q. Did you ask anybody to track down the different names?

17 A. We tried, yes, sir.

18 Q. Would it surprise you that one of the names that they
19 gave was actually the person they were talking to? The police
20 chief?

21 A. Yes that was one of the names, yes, sir.

22 Q. So, one of the names that both the police chief and
23 the deputy police chief gave as an alias for this RCE or RCIED
24 bomb maker ----

1 A. Yes, sir.

2 Q. ---- was actually an alias that the police chief used?

3 A. There were a hundred aliases, sir. I can't verify

4 anything.

5 Q. Right.

6 A. Not a hundred but there were numerous.

7 Q. Many, right. In the interview that Major Golsteyn

8 gave he expressed concern that if this individual who was

9 supposedly killed actually got back to making bombs that the

10 tribal elder in southern Marjah was going to be killed?

11 A. Yes, sir.

12 Q. Correct?

13 A. The one that was working with him, yes, sir.

14 Q. Right. It's your understanding from everything you

15 learned in the investigation the worst case scenario that

16 happened was that there was a detainee on the FOB, right?

17 A. Yes, sir.

18 Q. That was cut loose?

19 A. Yes, sir.

20 Q. That he was headed back west of the FOB on the only

21 road back to his house that he was running his operation out of.

22 Isn't that true?

1 A. I can't say west, sir. He just said released out of
2 the gate. I can just go by the interview, sir, never given a
3 direction.

4 Q. They said they caught the bomb maker by the bazaar at
5 a house with RCIED bomb making equipment. Isn't that what you
6 learned in your investigation?

7 A. Yes, sir.

8 Q. Do you know where the bazaar is compared to Thunder
9 Dome?

10 A. Yes, sir.

11 Q. Okay. Isn't it to the west?

12 A. Yes, sir.

13 Q. And in the interview didn't Major Golsteyn say
14 something to the effect of, I knew where he would go if he was
15 going back to his house?

16 A. Yes, sir.

17 Q. So he was going to the west then. Isn't that fair?

18 A. I can't verify that the house was by the bazaar, sir.
19 I just couldn't verify that.

20 Q. All right. Isn't there statements from individuals
21 that you and others interviewed that said he was caught at his
22 house to the west of the bazaar while there was a firefight
23 going on to the west and northwest?

1 A. I am not remembering the direction, sir. That's all
2 I'm saying, sir. I don't remember any directions. I remember
3 one of the individuals or two of the individuals maybe said that
4 he was caught at the house. Captured there and moved.

5 Q. Okay. Well, let's just put it -- if the bazaar was to
6 the west can we agree that he was going west? Still not going,
7 huh?

8 A. I can't say that, sir.

9 Q. Okay. Again, worst case scenario is he's walking down
10 the street back to his house where the RCIED bomb making
11 equipment was the last time he was there, correct?

12 A. Based off of Captain Golsteyn's admission, that's what
13 he said. So, I can only go by what he is saying, sir.

14 Q. Well, you know that other people reported capturing a
15 bomb maker?

16 A. Yes, sir.

17 Q. And it was the Afghans that brought him back?

18 A. Yes, sir.

19 Q. And that he was the RCIED bomb maker?

20 A. He had RCIED equipment. What I'm trying to say, sir,
21 is I can't say that this person that Captain Golsteyn said in
22 the interview is the same exact person that these people are
23 talking about. That's all I'm saying, sir. I cannot say that
24 this is exactly the person.

1 Q. Okay. Again, worst case scenario if this person was
2 cut loose, he's not a detainee any more. Correct?

3 A. Yes, sir, or no.

4 Q. He's not?

5 A. No.

6 Q. Okay. And if he's going back to, let's just say, just
7 track with me that he's going back to the location where his
8 RCIED equipment was being kept, if he was shot on the way back
9 that would have been an ambush, true?

10 A. Honestly, I can't answer that, sir.

11 Q. Did you ever look at any of the ROEs and I am not
12 asking you what they were, did you ever look at any of the ROEs?

13 A. That they had in place, sir?

14 Q. Right.

15 A. No I did not.

16 Q. You know that he served, Major Golsteyn, during your
17 investigation you learned that he served many masters while he
18 in southern Marjah, correct?

19 A. Who's he, sir?

20 Q. Major Golsteyn.

21 A. Oh, okay. Yes, sir.

22 Q. So, he was attached to Special Forces?

23 A. Yes, sir.

1 Q. He had Afghans, 400 Afghans that were attached to his
2 unit?

3 A. Yes, sir.

4 Q. He was under the control of a task force, right?

5 A. Yes, sir.

6 Q. That invaded Marjah?

7 A. Yes, sir.

8 Q. Or, I guess invaded isn't the right work, but you know
9 what I mean?

10 A. Yes, sir.

11 Q. And he was also under the direct control or
12 supervision of RCT-7, a Marine Regiment, correct?

13 A. I didn't know he was under the direct control of him,
14 but I know that they did work together. Yes, sir.

15 Q. Any idea what kind of ROEs he had at all?

16 A. No, sir.

17 Q. Did you interview Colonel Randy Newman?

18 A. Yes, sir.

19 Q. Did you talk to him about any ROEs or anything like
20 that?

21 A. To be honest with you, sir, if I could review I would
22 say, I don't remember that interview, sir. If I could see that
23 AAR, it would refresh my memory.

1 Q. Did you learn that he -- that Major Golsteyn as a
2 captain was a battle space commander?

3 A. It sounds about right, but I'm not too sure, sir.

4 Q. And I say commander, I should have said owner, that he
5 actually owned the southern third of Marjeh. You are aware of
6 that?

7 A. I believe so, yes, sir.

8 Q. And you know he had full authority to, on his own,
9 call in air strikes if he needed them?

10 A. Yes, sir.

11 Q. That he didn't need to clear that?

12 A. Yes, sir.

13 Q. And the same thing with Artillery, if he needed other
14 indirect fire support?

15 A. Yes, sir.

16 Q. And in talking to any of the commanders did you learn
17 if you if you are a battle space owner you have the ability to
18 make engagements at your discretion?

19 A. I don't remember that, sir.

20 Q. Or engage targets at your discretion?

21 A. I don't remember those discussions, sir, because that
22 wasn't the main part of my conversation with them.

23 Q. Uh, huh. What about his ability to declare somebody
24 hostile as a battle space owner. Can he do that?

1 A. We didn't discuss that, sir.

2 Q. Using this as an example, you learned what happened
3 sort of in the middle of February when Major Golsteyn was
4 involved personally in a substantial firefight. You learned
5 about that, correct?

6 A. Yes, sir.

7 Q. You've had the opportunity to read the summary of
8 action in the citations?

9 A. Yes, sir.

10 Q. In that particular instance he was able to decide
11 whether he was going to engage in an operation or make an
12 engagement, correct?

13 A. He was the commander, I guess, sir. I mean, I don't
14 stipulate what they or determine what his job was.

15 Q. You know that he stepped off and moved a, at his own
16 discretion, stepped off and moved a relatively large unit in a
17 particular direction where he thought there was an enemy
18 combatant?

19 A. Yes, sir.

20 Q. During the hostilities that ensued, he could make the
21 decision whether to fire rockets, true?

22 A. He did make the decision.

1 Q. Right. If you read the summary of action you knew
2 that he had and in fact did the ability to call in his own air
3 without clearing with anyone. You learned all that, right?

4 A. Reading it. I mean, I haven't read this in a very
5 long time, sir. I know he did these actions. I don't know if
6 it says in there that he was allowed to do all this. He did
7 these actions.

8 REC: Sir, if I can, it's not an objection per se, but if I
9 can ask the respondent to be more narrow, if possible. Is he
10 alluding to the fact that he can call in kinetic strikes or call
11 in fires in self-defense?

12 Q. So, you understand that in his battle space that he
13 can engage in any offensive actions that he deems appropriate.
14 Are you aware of that?

15 A. No, sir.

16 PRES: I didn't hear that last answer.

17 WIT: No, sir, I apologize. No.

18 Q. Did you know or did you ever learn that he has the
19 ability to declare offensive targets in his battle space?

20 A. If I did, I don't remember, sir.

21 Q. So, you've done 250 investigations?

22 A. Approximately, sir.

23 Q. Interviewed a lot of people?

24 A. Yes, sir.

1 Q. Have you ever heard people use poor word choice?

2 A. All the time, sir.

3 Q. So, you were a combat arms guy beforehand?

4 A. Yes, sir.

5 Q. And I'm sure that you were trained in, you know, basic
6 Infantryman techniques as well, correct?

7 A. Yes, sir.

8 RESP Cc: Or tactics. May I have just a moment, sir?

9 PRES: Certainly.

10 [There was a brief pause while the respondent's counsel
11 conferred.]

12 Q. I'm going to back up for just a second. We were
13 talking about the abilities that he had. Captain Woodruff, do
14 you remember what his job was?

15 A. Yes, sir. I believe, I think he ----

16 Q. Let me throw the term ----

17 A. I believe he was the sniper.

18 Q. Okay.

19 A. I may be wrong, sir.

20 Q. If I threw ANGLICO at you, would that ring a bell?

21 A. Yes, sir.

22 Q. So, he's a Naval Gun Fire Liaison Officer, right?

23 A. It sounds about right.

1 Q. Okay. And you know their entire purpose when they're
2 land-locked like this place is, is to control tactical aircraft
3 and close-air support?

4 A. Yes, sir.

5 Q. So, with that in mind does that make sense now that
6 Major Golsteyn has full operational capabilities of calling in
7 air on his own if he has an ANGLICO officer assigned to him?
8 Don't know?

9 A. I can put my opinion in there, sir, but that's not
10 what this is about.

11 Q. Okay. Did you read the investigative action, so it's
12 kind of like your AIRs?

13 A. Oh, the NCIS's?

14 Q. That NCIS did for Major Woodruff ----

15 A. Yes, sir.

16 Q. ---- after the video was taken?

17 A. Yes, sir.

18 Q. Do you remember reading that Woodruff related Golsteyn
19 always followed the rules of engagement to his knowledge and
20 never confided in him in any illegal activity or immoral
21 behavior? Do you remember that?

22 A. It sounds about right, yes, sir.

23 Q. So, I want to go back to this and I know I have been
24 kind of pecking around and I apologize for that. A few other

1 things. I was describing how, you know, this individual was cut
2 loose and headed back to a house where RCIED equipment was. Do
3 you remember that?

4 A. Yes, sir.

5 Q. And that's what he described to you, Major Golsteyn?
6 Or excuse me. That's what he described in the video, correct?

7 A. No, sir. He said he went out -- he released him out
8 the gate. Followed him. Twenty to 30 minutes later caught him
9 up the road about a kilometer and a half. I don't remember him
10 saying about the house.

11 Q. He doesn't say he followed him up the road, does he?

12 A. I can't remember the actual terminology, sir.

13 Q. Right. Doesn't he say something to the effect of, he
14 set up on the road a couple of clicks from the FOB?

15 A. No, sir.

16 Q. So, what you're describing if I envision it, is him
17 running down the street after him. Is that what you envision?

18 A. Running or driving a vehicle, sir. I mean, I ----

19 Q. So you've talked to other people that were on the FOB?

20 A. Yes, sir.

21 Q. Every single person you talked to said nobody left the
22 FOB?

23 A. Yes, sir.

24 Q. Not even Major Golsteyn?

1 A. Yes, sir.

2 Q. And nobody else left the FOB?

3 A. No, sir.

4 Q. And that everybody that you talked to said it's
5 impossible for anybody to leave the FOB unnoticed?

6 A. Yes, sir.

7 Q. And that would just be ones and twos?

8 A. I apologize. I might be -- I would be wrong here. I
9 believe HM3 Powers was the one who told me about the multiple
10 gates. I was learning the gates as we went along, sir, and they
11 talked about the personnel gate and that somebody could go out
12 there because there was only one or two Marines back there at a
13 time possibly.

14 Q. So, this is a Navy Corpsman?

15 A. Yes, sir.

16 Q. Assigned to the Route Clearance Platoon?

17 A. Yes, sir.

18 Q. Everybody that stood security though said it's
19 impossible for anybody to leave the outpost unnoticed, correct?

20 A. I could tell you this much, sir. In the beginning --
21 When I interviewed all these people, I knew about the gate as
22 far as the vehicle gate, and that's what we were discussing and
23 I would talk to them about the vehicle gate. The reason is
24 because that's the only gate I knew about at the time.

1 Q. Uh, huh.

2 A. So, as we went farther along I did not re-interview
3 those people about the other gates.

4 Q. You interviewed people that were on security at
5 Thunder Dome, correct?

6 A. Yes, sir.

7 Q. Is it fair to say that they had 360 security around
8 Thunder Dome?

9 A. I would assume so, sir.

10 Q. And they also had a sniper in a crow's nest on top of
11 the major building at Thunder Dome?

12 A. Yes, sir.

13 Q. And he also maintained security at Thunder Dome?

14 A. Yes, sir.

15 Q. There was nobody that you could find that said that
16 there was some sort of sneak-out of Thunder Dome, correct?

17 A. We never brought up the sneak-out, no, sir.

18 [There was a brief pause while the respondent's counsel
19 conferred.]

20 Q. Do you remember interviewing Gunnery Sergeant Kenyon?

21 A. Yes, sir.

22 Q. And he was kind of in charge of the security of
23 Thunder Dome?

24 A. I believe so. Yes, sir.

1 Q. Didn't he tell you that even if somebody -- if
2 somebody were to shoot someone within a couple of clicks of
3 Thunder Dome that it would have been able to be heard?

4 A. Yes, sir.

5 Q. And no reports came to him?

6 A. No, sir.

7 Q. Do you think that if he would have used the word
8 ambush instead of assassinate that there would have been an
9 investigation?

10 A. I just do the investigation, sir. I don't -- I don't
11 get told -- I don't initiate them.

12 Q. Right, but you investigated this one?

13 A. Yes, sir.

14 Q. And you talked to everybody?

15 A. Yes, sir.

16 Q. You should know it about as better -- about as good or
17 better than anybody else?

18 A. Absolutely, sir.

19 Q. If he used the word ambush instead of assassinate when
20 he was talking to the CIA, do you think this would have lasted
21 three years or two and a half years?

22 A. I think it's based on the circumstances, sir. Just
23 changing the word from assassinate to ambush and using the same
24 stuff that was said, I mean, it still has all the other stuff

1 that he set this in motion. He pre-planned this, and then he
2 went out there and he buried it, the body, and he took it back
3 to burn it. I mean, ambush/assassinate, it doesn't change the
4 role there. Now, if there were different circumstances, then
5 yes, sir.

6 [There was a brief pause while the respondent's counsel
7 conferred.]

8 Q. All right. The last thing I want to talk to you about
9 is Lieutenant Barry. What was the language you said Lieutenant
10 Barry gave you?

11 A. I'd have to look at how I wrote it, sir, because I did
12 -- I believe it was something to the effect of, I'll capture --
13 are you talking about when he had the conversation with Captain
14 Golsteyn?

15 Q. Right.

16 A. To the effect of, something to the effect of, don't
17 worry we'll capture him, and I'll kill him or we'll kill him. I
18 can't remember exactly.

19 Q. And so those were the words that you wrote down. Did
20 you go back and watch the video of Lieutenant Barry's interview
21 before you wrote that?

22 A. No, not when I wrote that, sir. I wrote that fresh
23 off my memory as soon as I got done interviewing him.