

1 [The court-martial was called to order at 1009, 2 July 2013.]

2 MJ: Court is called to order.

3 Major Fein, please account for parties.

4 TC[MAJ FEIN]: Yes, ma'am. Your honor, all parties when the
5 Court last recessed are again present. Mr. Chavez, court reporter,
6 is absent; Mr. Robertshaw, court reporter, is present.

7 Also, this session is closed session, classified at the
8 SECRET NOFORN level. And, the court security officer executed his
9 closed hearing checklist and it will be added to the post-trial
10 allied documents.

11 MJ: All right, have there been any new appellate exhibits added
12 to the appellate exhibit list?

13 TC[MAJ FEIN]: Yes, ma'am. There are two appellate exhibits
14 that have been marked. The first is Appellate Exhibit 589, this is
15 the EEI list Bates number 00527925 through 00527929 and, Appellate
16 Exhibit 590, the value list, Bates number 00527930 through 00527932;
17 both classified.

18 MJ: All right, the parties have, via e-mail, last night given
19 both the government and the defense appellate briefs for the Fourth
20 Circuit in the *United States v. Truong Dinh Houng*. That case was
21 decided by the Fourth Circuit at 629 f. 2nd 908 in 1980. Both sides
22 presented the appellate briefs with respect to, apparently, an FBI
23 agent testified as to value of government documents in that case.

1 Does either side desire to put anything further on the
2 record other than what has been put in with the case and e-mail?

3 ATC[CPT MORROW]: No, Your Honor.

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

5 MJ: All right. The Court finds this of limited value. Both of
6 the briefs talk about the fact that the FBI agent testified, but
7 neither one of them articulates what, if any, qualifications he had
8 to testify. All right, the court is prepared to rule, unless the
9 parties have anything else to add with respect to Mr. Lewis as an
10 expert witness area.

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

12 ATC[CPT von ELTEN]: No, ma'am.

13 MJ: All right, the Court has both an unclassified ruling and a
14 classified oral supplement so the plan is I am going to read the
15 unclassified findings of fact followed by the classified oral
16 supplement to the findings of fact. I am not going to read the law
17 during the closed session since I will be reading the unclassified
18 version during the open session and I believe you all know the law,
19 we do not need to read it twice. And then, I will read the
20 conclusions of law, both unclassified and classified.

21 Unclassified ruling; government motion to qualify Mr.
22 Daniel Lewis as an expert.

1 One 1 July 2013, the government moved the Court to
2 recognize Mr. Daniel Lewis as an expert witness in (b) (1) (B)
3 counterintelligence and value of United States Government information
4 to foreign intelligence sources. The government established its
5 foundation in both open and closed sessions. The defense does not
6 oppose Mr. Lewis as an expert in CI generally but does challenge his
7 expertise in offensive CI and value. The defense cross-examined Mr.
8 Lewis regarding foundation in both open and closed sessions. The
9 parties presented oral arguments in closed session. Having received
10 the briefs and having heard oral arguments, the court finds and rules
11 as follows.

12 Findings of fact.

13 1. Mr. Lewis has 29 years of experience in CI including CI
14 operations, investigations, collections, analysis and functional
15 services. Included in this expertise is a tour as chief of training
16 for the Department of Defense Joint CI Training Academy, JCITA for
17 the military and the Defense Intelligence Agency, DIA. Mr. Lewis'
18 experience includes working as a senior investigator for the foreign
19 CI Activity, FCA, which operates the most sensitive and significant
20 espionage investigations.

21 2. From 2006 to 2013, Mr. Lewis was the chief of the
22 counter espionage division at DIA. This was DIA's most senior CI

1 position. Mr. Lewis was the senior level subject matter expert for
2 CI operations and investigations, supervising 50 to 55 CI
3 professionals at any given time. He is the most experienced CI
4 expert in DIA. The CI division--excuse me, the counter espionage
5 division retained oversight of all services--all service CI
6 investigations and operations within the DOD and national security--
7 NSA, National Security Agency, to include espionage investigations
8 and offensive CI operations. Mr. Lewis personally briefed the
9 Secretary and Deputy Secretary of Defense for Intelligence and
10 Congress.

11 3. Mr. Lewis was the lead investigator in that multiple CI
12 investigations including Colonel George Trofimoff and Army Sergeant,
13 retired David Boone, both convicted of espionage and providing
14 information to Russia. Mr. Lewis received a civilian DOD CI
15 investigator of the year award from both cases in 1996 and 1999
16 respectively.

17 4. CI investigations are espionage investigations where
18 DoD has an equity. CI operations involve clandestine activities
19 focused on individuals known to be involved in adversary intelligence
20 or terrorist organizations. Mr. Lewis has experience as a case
21 officer in espionage investigations but has never been a case agent
22 or case agent manager for offensive operations. In his position as

1 chief of counter espionage division at DIA he has oversight for all
2 DoD offensive CI operations.

3 5. Mr. Lewis has testified as a fact witness in court and
4 has never been qualified as an expert witness in any court for any
5 purpose.

6 Classified findings of fact.

7 1. There is no Amazon.com or other place for foreign
8 intelligence services to buy government information--US government
9 information. Foreign intelligence services steal US government
10 information through espionage.

11 2. To prepare for this case, Mister Lewis requested
12 to produce an Essential Elements of Information list,
13 EEI, with a snapshot of 2008 to 2009 for (b) (1) (B)
14 And EEI is data collected from successful counterintelligence
15 operations to provide a snapshot of what

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17 3. Also in preparation for this case, Mr. Lewis requested
18 to retrieve data about the most and least successful
19 offensive counterintelligence operations (b) (1) (B).
20 This data did not include data from unsuccessful or failed
21 counterintelligence operations.

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4. An incomplete [REDACTED]
(b) (1) (B)

5. A failed [REDACTED]
(b) (1) (B)

6. There are many reasons incomplete or failed [REDACTED]
(b) (1) (B)

Unclassified conclusions of law.

1. Mr. Lewis' expertise comes from his 29 years experience in CI investigations over--and oversight of offensive [REDACTED] counterintelligence operations. He is an expert in all facets of CI. His testimony will be based on information gathered through offensive CI operations and systematically entered into the systems employed by the counter espionage division of DIA. These systems are routinely used by DIA to collect data from offensive CI investigations and such data is used to prepare briefings and other memoranda for the

1 Secretary and Deputy Secretary of Defense for Intelligence, and for
2 Congress, and has been generally accepted by these entities as
3 accurate. The data collected by the systems is reliable.

4 2. The Court has issued an oral classified supplement to
5 this ruling. The Court accepts Mr. Lewis as an expert in CI. The
6 Court does not accept Mr. Lewis as an expert in the value of US
7 government information to foreign intelligence services. This
8 expertise is too overbroad. Mr. Lewis may testify and offer an
9 opinion with regard to value of certain charged documents upon laying
10 a proper foundation within the parameters of the oral classified
11 supplement to this ruling. The court has done an analysis under MRE
12 403, and finds that Mr. Lewis's testimony is highly probative. The
13 probative value of the evidence is not substantially outweighed by
14 the danger of unfair prejudice or other MRE 403 factors. The Court
15 will consider this evidence for its proper purpose within the
16 parameters of this ruling and its oral classified supplement.

17 Ruling.

18 Government motion to qualify Mr. Lewis as an expert is
19 granted in part.

20 Ordered this 2nd day of July, 2013.

21 Classified oral supplement; classified conclusions of law.

1 1. The Court accepts Mr. Lewis as an expert in
2 counterintelligence to include offensive counterintelligence
3 operations. The fact that his experience comes from oversight rather
4 than direct involvement as a case agent in effective
5 counterintelligence operations goes to weight.

6 2. The court does not accept Mr. Lewis as an expert in the
7 value of information--of US Government information to foreign
8 intelligence sources.

9 2[sic]. As part of his expertise in counterintelligence,
10 Mr. Lewis may testify about his knowledge regarding the following
11 types of information between 2008 and 2010 with respect to [REDACTED]

12 (b) (1) (B)

13 1) The (b) (1) (B)

14 [REDACTED]

15 2) Information of the types of information requested by

16 (b) (1) (B)

17 3) [REDACTED]

18 (b) (1) (B)

19 [REDACTED] that (b) (1) (B)

20 4) Mr. Lewis' use of key terms to assess whether there is
21 any information similar to information previously (b) (1) (B)

22 (b) (1) (B)

This includes

1 key terms he used, why he used them, what information the key terms
2 retrieved, and what information a key terms retrieved from the
3 charged documents.

4 5) Mr. Lewis may compare the information in the charged
5 documents with information (b) (1) (B)
6 (b) (1) (B) between 2008 and 2010 and testify what
7 information in the charged documents will be valued--be valuable to
8 foreign intelligence services and why.

9 6) To the extent that Mr. Lewis can lay a foundation that
10 the foreign intelligence services of (b) (1) (B)
11 (b) (1) (B), Mr. Lewis may offer an
12 opinion about the value of portions of the information in the charged
13 documents that is comparable to (b) (1) (B)
14 (b) (1) (B) Such an opinion is within the scope of
15 Mr. Lewis' expertise in counterintelligence. Mr. Lewis may not opine
16 on the value of information in the charged documents that bears no
17 relation or similarity to (b) (1) (B)

18 (b) (1) (B)
19 All right, is there anything further we need to address
20 with respect to this ruling?

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

22 MJ: Yes.

1 [The trial counsel conferred.]

2 TC[MAJ FEIN]: Ma'am, the United States does not have anything
3 further or questions about the ruling itself, however, the United
4 States would request some time after this in order to apply that
5 ruling to the testimony and possibly make a copy of the handwritten
6 ruling for the parties.

7 MJ: Good luck on that. I have got a lot of scratches, but you
8 are more than welcome to have it.

9 Yes?

10 ADC[MAJ HURLEY]: Yes, ma'am, just a five-minute recess for
11 comfort--if we may do that, it seems like a good time.

12 MJ: All right, I have got to have the classified ruling
13 properly marked. So once I do that, I will go ahead and give that to
14 you all.

15 Actually, is there a way that the parties could get that
16 ruling from the record itself? The only reason I do that is I have
17 gone back and forth with pages. It will make no sense to you if you
18 are getting my notes.

19 TC[MAJ FEIN]: Yes, ma'am.

20 MJ: And you will not be able to read it.

21 TC: Yes, ma'am.

1 MJ: All right. So we will do it that way. How long of a
2 recess do you need?

3 TC[MAJ FEIN]: Unfortunately for that, ma'am, probably--
4 realistically, probably until 11 o'clock, which is the open session.
5 By the time we listen to the audio and get it back, or write it down
6 from the audio.

7 MJ: All right, well here is my suggestion on that then. Why
8 don't we go on the open session, we will read the judicial notice
9 ruling. I will read the unclassified version of this ruling and then
10 maybe at that point it will be a good time to take the extended lunch
11 and then come back, and do Mr. Lewis. Do you see any final need for
12 an open session after that?

13 CDC:[MR. COOMBS]: No, Your Honor.

14 TC[MAJ FEIN]: Well ma'am, you would want to end with an open
15 session for the government to rest. So, we still would want an open
16 session after we elicit Mr. Lewis' opinion testimony.

17 MJ: Okay.

18 TC[MAJ FEIN]: So, we would still want a final open session at
19 the end of the day, I assume.

20 MJ: All right. Well, let's do this, let's have the open
21 session at 11 o'clock, why don't you all come see me about 10 minutes
22 to 11, let me know if--I mean, we can have the open session, it isn't

1 going to be very long and then go right into Mr. Lewis' testimony.
2 If you want to do that and then do some kind of extended lunch. If
3 you would rather do that and you are ready to go, having had an hour
4 with the opinion.

5 TC[MAJ FEIN]: Yes, ma'am.

6 MJ: And then, we can do an extended lunch and do a final open
7 session after that?

8 TC[MAJ FEIN]: Check, ma'am.

9 MJ: Let me know how you decide you want to proceed.

10 Court is in recess until 11 o'clock.

11 [The court-martial recessed at 1025, 2 July 2013.]

12 [END OF PAGE]

1 [The court-martial was called to order at 1354, 2 July 2013.]

2 MJ: Court is called to order. Major Fein, please account for
3 the parties.

4 TC[MAJ FEIN]: Yes, ma'am, all parties when the Court last
5 recessed again present. Ma'am, this session is a closed session
6 classified SECRET level. The court security officer completed a
7 closed hearing checklist and it will be filed in the post-trial
8 allied documents.

9 MJ: All right. Is there anything we need to address before we
10 call the witness?

11 TC[MAJ FEIN]: No, ma'am.

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

13 MJ: All right. Hold on just a moment, let the record reflect I
14 am taking this with a new SECRET computer that does not appear to
15 have Microsoft Word. Let's take a brief recess. If there is some
16 automation person that can come up and help.

17 Court is in recess in place.

18 **[The court-martial recessed at 1355, 2 July 2013.]**

19 **[The court-martial was called to order at 1357, 2 July 2013.]**

20 MJ: Court is called to order. Let the record reflect that all
21 parties present when the court last recessed are again present in

1 court and the court is equipped with Microsoft word. I am ready to
2 proceed.

3 TC[MAJ FEIN]: Ma'am, the United States recalls Mr. Danny Lewis.
4 **DANNY LEWIS, CIVILIAN, was recalled as a witness for the prosecution,**
5 **was reminded of his oath, and testified as follows:**

6 **REDIRECT EXAMINATION**

7 **Questions by the trial counsel[MAJ FEIN]:**

8 Q. Sir, I would like to start off by having you focus on the
9 CIDNE-A database. Are you familiar with the CIDNE-Afghanistan
10 database?

11 A. I am.

12 Q. Sir, how are you familiar with the database?

13 A. I reviewed a small sampling of that database in preparation
14 for my testimony.

15 Q. And sir, in your own words, how would you--how do you
16 describe the CIDNE-A database?

17 A. It was reports of activities that US forces were conducting
18 in Afghanistan. It kind of ranged on my--what I saw was IED attacks,
19 meetings with officials and--around the countryside. One of them is
20 actually a soldier that had been, it looks like, had been captured.
21 But generally, the activities, convoys, those type of ongoing
22 military activities that were happening in Afghanistan.

1 Q. Sir, I'm going to retrieve Prosecution Exhibit 111b. Sir,
2 I am handing you what has been admitted as 111b, a stipulation of
3 expected testimony of Lieutenant Commander Hoskins. Sir, could you
4 please review paragraph 10 and 11 on pages 2--starting on page 2 and
5 look up when you are finished?

6 [The witness did as directed.]

7 A. Okay.

8 Q. Sir, have you read this stipulation of expected testimony
9 before?

10 A. I have.

11 Q. And sir, what government information within the CIDNE-
12 Afghanistan database would a (b) (1) (B)

(b) (1) (B)

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14 A.

(b) (1) (B)

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19 Q. And, how do you know--well first, sir, which of the foreign
20 intelligence services would be interested in that information in
21 2009, 2010; which of those three?

22 A. All three would be interested in it.

1 Q. Sir, how do you know that all three are looking for that
2 type of information?

3 A. Based on my experience, all of our adversaries would like
4 to know how we conduct our operations at any point and any time.
5 This was our fighting force. The way we were doing things here in
6 Afghanistan would be the way we would do things in the future in,
7 potentially, other areas of the world. That would be a collection
8 requirement of any of our adversaries, much like we have a
9 requirement to collect on foreign militaries who are our adversaries.

10 Q. And sir, [REDACTED]

(b) (1) (B)

11 [REDACTED]
12 A. [REDACTED]

(b) (1) (B)

13 Q. [REDACTED]

(b) (1) (B)

14 [REDACTED]
15 A. I know that, one, from the EEI reports where we know that
16 they are asking for that type of information. And, [REDACTED]

(b) (1) (B)

17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 (b) (1) (B) --what will they know?

21 I know I am not doing a good job of that.

22 Q. What do you mean, sir?

1 A. All of the information provided in the (b) (1) (B)
2 (b) (1) (B)
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4 (b) (1) (B) So, we know
5 they have asked for it. We know (b) (1) (B)
6 (b) (1) (B)
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8 Q. And sir, do you have an opinion, do you have an actual
9 opinion about (b) (1) (B)
10 (b) (1) (B)

11 A. Yes.

12 Q. And sir, how confident are you in that opinion you have?

13 A. Very.

14 Q. And sir, what is your opinion of (b) (1) (B)
15 (b) (1) (B)

16 A. (b) (1) (B)

17 Q. Sir, is that based off of one document or the entire
18 database?

19 A. It is based off of what (b) (1) (B)
20 (b) (1) (B)
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(b) (1) (B)

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Q. Sir, I am retrieving----

MJ: Yes?

ADC[MAJ HURLEY]: Just a point of clarification. Is Mr. Lewis testifying from his memory or from the EEI document and the price document? I got confused.

MJ: All right, do you want to--are you testifying from your memory or from the EEI document, or both?

WIT: Is all combined, Your Honor.

MJ: All right. Go ahead.

Q. Your Honor, I am retrieving prosecution Exhibit 111b from the witness. Mr. Lewis, are you familiar with the detainee assessment briefs database?

A. I am.

Q. Sir, and how are familiar with the detainee assessment briefs?

1 A. I reviewed some of those reports in preparation for my
2 testimony.

3 Q. And sir, in your own words, what are those reports?

4 A.

(b) (1) (B)

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11 Q. Sir, if you could--one moment please. One moment please,
12 Your Honor. Your Honor, I am retrieving prosecution Exhibit 131, a
13 stipulation of expected testimony of Mr. Motes. Sir, I am handing
14 you this prosecution exhibit. Sir, could you please review
15 paragraphs 10(a) through 10(c), 11 and 12, sir, on page three and
16 look up when you are finished?

17 [The witness did as directed.]

18 A. Okay.

19 Q. Sir, have you read the stipulation by Mr. Motes about the
20 detainee assessments before?

21 A. Yes.

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Q. And, what government information within (b) (1) (B)
(b) (1) (B)

A. All of them would like to know the information because it gives--what they get from the document is, one, (b) (1) (B)
(b) (1) (B)

We know the (b) (1) (B)

When you get to the end of the document, we start listing the areas that we want to explore. When you lay all of those out in a--when you have a lot of those, you start creating our requirements, the information that the US government is looking for. And, we are trying to satisfy that requirement (b) (1) (B)

(b) (1) (B)

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5 (b) (1) (B) So, from that
6 standpoint--of course (b) (1) (B) would want to know about that, but I have
7 not seen any specific EEI's or anything like that where (b) (1) (B), from
8 GTMO, was seeking that type of information.

9 Q. And sir, have (b) (1) (B)
10 (b) (1) (B)

11 A. (b) (1) (B)

12 Q. (b) (1) (B)

13 A. (b) (1) (B)
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21 Q. So, you do not know of an exact--you cannot recollect, sir,
22 whether the (b) (1) (B) would pay for that type of information or not?

1 A. In the detainee brief, no.

2 Q. Okay, sir. And, sir, do you have an opinion on how much
3 the (b) (1) (B) would pay for that type of information?

4 A. I do.

5 MJ: Yes?

6 ADC[MAJ HURLEY]: Objection, ma'am, relevance. I do not believe
7 the witness, in his foundation connected the timeline of this
8 estimate as between 2008 and 2010.

9 MJ: That is true; sustained.

10 Q. Mr. Lewis, what government information within the detainee
11 assessments would the (b) (1) (B) want in 2009 and 2010?

12 A. Everything that would give us--everything that would tell
13 them what (b) (1) (B)

14 Q. And how do you know that, sir, for the timeframe of 2009,
15 2010?

16 A. From the counterintelligence standpoint which I am looking
17 at from their counterintelligence aspect as well, from my experience,
18 any time that we know what our adversaries do not know, it gives us
19 the upper hand. So, when we are telling anyone, to include the

20 (b) (1) (B), based on what our information needs, (b) (1) (B)

21 (b) (1) (B)
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1 (b) (1) (B)
2 (b) (1) (B) then they use that to their
3 advantage against us.

4 Q. So sir, excluding present day, how do you know that
5 information that that is what the (b) (1) (B)
6

7 A. Right. As a professional intelligence service, the
8 (b) (1) (B) are always after that type of information just like all of
9 our adversaries are.

10 Q. And sir, do you know or have the (b) (1) (B) paid for this
11 type of information in 2009, 2010?

12 A. I cannot definitively say that, no.

13 Q. Sir, have the (b) (1) (B) paid for that information prior to
14 2009, 2010?

15 A. Yes.

16 Q. And, have the--did the (b) (1) (B) pay for this type of
17 information after 2009, 2010?

18 A. I could not say that.

19 Q. Okay sir, how do you know it was before 2009, 2010?

20 A. Based on my experience with investigations with
21 investigations that were involved people providing this type of
22 information to the (b) (1) (B)

1 Q. And sir, do you have an opinion about how much the

2 (b) (1) (B)

----- (b) (1) (B)

3 MJ: Yes?

4 ADC[MAJ HURLEY]: Objection, ma'am, relevance, fitting it within
5 the scope of the Court's order from 2008 to 2010.

6 MJ: Mr. Lewis, when was the last time you were aware that the

7 (b) (1) (B)

similar type information?

8 WIT: That is contained in the (b) (1) (B) ma'am?

9 MJ: Yes. (b) (1) (B), I will go even broader

10 than that.

11 WIT: That would be--what specific information, ma'am, that would
12 probably be where I know, based on experience I have that I was
13 personally involved in, would be the mid-80s. But, with our
14 continuing education as counterintelligence professionals,

15 (b) (1) (B)

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21 MJ: All right, sustained.

22 TC[MAJ FEIN]: May I have one moment, Your Honor?

1 MJ: Yes.

2 Redirect Examination Continued:

3 Q. Sir, you just testified about the (b) (1) (B) [redacted]
4 (b) (1) (B) [redacted] in 2009, 2010 and the (b) (1) (B) [redacted]
5 [redacted]
6 [redacted]

7 A. [redacted]
8 (b) (1) (B) [redacted]
9 [redacted]
10 [redacted]
11 [redacted]
12 [redacted]
13 [redacted]
14 [redacted]
15 [redacted]

16 Q. (b) (1) (B) [redacted]
17 [redacted]

18 A. Yes.

19 Q. And how do you know that, sir?

20 A. [redacted]
21 (b) (1) (B) [redacted]

1 Q. And, what position were you in at that time sir, to oversee
2 those operations?

3 A. Overseeing the--having visibility over all of the DoD
4 offensive operations in DoD.

5 Q. (b) (1) (B)
6 (b) (1) (B)

7 A. (b) (1) (B)

8 Q. (b) (1) (B)
9 (b) (1) (B)

10 A. (b) (1) (B)

11 Q. (b) (1) (B)
12 (b) (1) (B)

13 A. (b) (1) (B)
14 (b) (1) (B)
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16 (b) (1) (B)

17 Q. (b) (1) (B)

18 A. (b) (1) (B)
19 (b) (1) (B)

20 Q. (b) (1) (B)
21 (b) (1) (B)

22 MJ: Yes?

1 ADC[MAJ HURLEY]: Objection, ma'am, relevance--not relevance,
2 foundation, I apologize. That the--an inadequate foundation has been
3 laid because he has not indicated that it is the information that the

4 [REDACTED] was the same information that was contained in
5 these [REDACTED]

6 (b) (1) (B) TC[MAJ FEIN]: Your Honor, the first question I asked Mr. Lewis
7 was, if he knows of--I started with (b) (1) (B) having collection
8 requirements or (b) (1) (B) and that is what he has testified to
9 is what was contained in the (b) (1) (B)

10 MJ: All right, why don't you ask it one more time?

11 TC[MAJ FEIN]: Yes, ma'am.

12 Q. Mr. Lewis, what type of information in the (b) (1) (B)
13 (b) (1) (B) are foreign intelligence services interested in
14 between 2008 and 2010?

15 A. [REDACTED]
16 (b) (1) (B)
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]

1 [REDACTED]
2 [REDACTED]

3 (b) (1) (B) [REDACTED] A lot of the information contained in the
4 [REDACTED] are what I consider to be our tactics, techniques and
5 procedures and [REDACTED]

6 (b) (1) (B) [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]

11 Q. So sir, what type of (b) (1) (B) [REDACTED]
12 that the (b) (1) (B) [REDACTED], between 2008 and 2010, would be interested in?

13 A. [REDACTED]
14 (b) (1) (B) [REDACTED]

15 Q. And sir, what does that, if anything, does that have to do
16 with (b) (1) (B) [REDACTED]

17 A. (b) (1) (B) [REDACTED] were the (b) (1) (B) part
18 of that.

19 Q. Okay, sir. So, backing up, what, again, in [REDACTED]
20 (b) (1) (B) [REDACTED] ---- (b) (1) (B) [REDACTED]

21 A. Correct.

22 Q. ----are the (b) (1) (B) [REDACTED] ?

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A.

(b) (1) (B)

the

area of interest part of that report.

Q.

(b) (1) (B)

(b) (1) (B)

A.

Q.

(b) (1) (B)

A.

(b) (1) (B)

Q.

(b) (1) (B)

A.

(b) (1) (B)

1 (b) (1) (B)

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7 Q.

8 (b) (1) (B)

9 MJ:

10 ADC[MAJ HURLEY]: Again ma'am, foundation. If you listen to his
11 answer, one, the question did not call for him to say that the
12 opinion was value between 2008 in 2010. The answer was too general.
13 It was a general answer about

14 (b) (1) (B)

15

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18

19 MJ: All right, before you get a little more specific, I do want
20 to ask a couple of clarifying questions.

WIT: Yes, ma'am.

1 MJ: When you testified earlier in response to Major Fein's
2 question, I thought I heard you testify that the [REDACTED] had asked--
3 you--we minute, let me see here. (b) (1) (B) [REDACTED]

4 [Pause]

5 MJ: All right, never mind about that. But, specifically to the
6 information in the (b) (1) (B) [REDACTED] and the type of
7 information that is in there, in 2009 and 2010, what particular--I
8 guess we are talking about (b) (1) (B) [REDACTED]
9 what types of information relevant to what you reviewed in the
10 (b) (1) (B) [REDACTED] in the charged documents would be of
11 [REDACTED] during that time?

12 (b) (1) (B) [REDACTED]
13 [REDACTED]

14 WIT: The--okay, ma'am. I think when I got started on the
15 [REDACTED], within the
16 theater of operations, (b) (1) (B) [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED] that gives us an option to counter those
20 activities. So, if they are aware of a (b) (1) (B) [REDACTED] that is in
21 (b) (1) (B) [REDACTED] and the (b) (1) (B) [REDACTED], they have a way
22 to influence, does that information--do they need to (b) (1) (B) [REDACTED]

1 (b) (1) (B)
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6 that area, generally all of that type of information.

7 MJ: All right. (b) (1) (B)
8

9 WIT:
10 (b) (1) (B)

11 They are not out
12 providing any other information. It is all supporting--and similar
13 to the

14 (b) (1) (B)
15
16

17 is what is happening in that (b) (1) (B)
18 theater. We are not dragging in other areas of the country there--of
19 the world, I am sorry, other areas of the world.

20 MJ:
21 (b) (1) (B)

22 WIT: (b) (1) (B)

1 MJ: All right. I am going to overrule the objection.

2 ADC[MAJ HURLEY]: Ma'am, may I be heard?

3 MJ: Yes.

4 ADC[MAJ HURLEY]: It is the position of the defense that if you,
5 again, you listen to Mr. Lewis' testimony, it is of a very general
6 nature. What we believe, consistent with your order, with respect to
7 his testimony, it has to say specifically, this information is
8 replicated--the information in the EEI are from his memory. It is
9 replicated within the charge documents or the stipulation of expected
10 testimony. And, we still do not believe that Mr. Lewis has quite
11 made that connection.

12 MJ: My order is not that strict.

13 ADC[MAJ HURLEY]: Ma'am, I said, "consistent with."

14 MJ: Okay, overruled. Go ahead.

15 **Redirect Examination Continued:**

16 Q. [REDACTED]
17 (b) (1) (B) [REDACTED]
18 [REDACTED]

19 A. [REDACTED]
20 (b) (1) (B) [REDACTED]

20 Q. [REDACTED]
21 (b) (1) (B) [REDACTED]

21 A. (b) (1) (B) [REDACTED]

1 Q. [REDACTED]
2 (b) (1) (B) [REDACTED]

3 MJ: (b) (1) (B) [REDACTED]

4 ADC[MAJ HURLEY]: Ma'am, we would object to the form of the
5 question. It [REDACTED]

6 (b) (1) (B) [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]

12 Q. [REDACTED]
13 (b) (1) (B) [REDACTED] ?

14 A. [REDACTED]
15 (b) (1) (B) [REDACTED]
16 [REDACTED]
17 [REDACTED]

18 Q. [REDACTED]
19 (b) (1) (B) [REDACTED]

20 A. [REDACTED]
21 (b) (1) (B) [REDACTED]
22 [REDACTED]

1 (b) (1) (B)
2
3

4 Q. And why is that, sir?

5 A. (b) (1) (B)
6

7 MJ: (b) (1) (B)
8

9 WIT: (b) (1) (B)

10 MJ: (b) (1) (B)

11 WIT: (b) (1) (B)

12 Q. Your honor, I am retrieving Prosecution Exhibit 131 from
13 the witness. Sir, now I would like to focus your attention on the
14 diplomatic cables. Are you familiar with the Department of State Net
15 Centric Diplomacy Database?

16 A. I am now.

17 Q. And how did you become familiar with the database?

18 A. I reviewed it in preparation for my testimony.

19 Q. In your own words sir, what does it consist of?

20 A. It consist of reports within the State Department of the
21 activities that were happening out in the field locations, summaries
22 of meetings, conferences, all of the inner workings of what the State

1 Department is reporting back to the headquarters, what its field
2 personnel were doing and what they were learning and what they were
3 saying.

4 Q. Sir, what government information within the Department of
5 State cables would the (b) (1) (B) , if at all,
6 want in 2008 through 2010?

7 A. Just about all of it.

8 Q. What do you mean, sir?

9 A. That is the inner workings of the US State Department.
10 Every adversary would want to know what we are doing diplomatically
11 around the world. That will be a standard collection requirement, as
12 is standard requirement for us to find out what is happening in other
13 countries within their diplomatic channels.

14 Q. And how do you know that, sir?

15 A. Experience.

16 Q. And sir, when you said, "Just about all of them,"
17 specifically about (b) (1) (B) , what about
18 those three? Would all three or one of them not want----

19 A. (b) (1) (B)

20 (b) (1) (B)

1 Q. And sir, how do you know--we will take one at a time. How

2 do you know the

3 (b) (1) (B)

4 A.

5 (b) (1) (B)

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13 Q. Sir, why did you pick those key terms to search?

14 A. Not sure what was in the database, I knew when it comes to
15 State Department that those--that, for

16 (b) (1) (B)

17

18 (b) (1) (B)

so I was--

(b) (1) (B)

19 Q. So, why--I guess you answered the, "why", but--well, could
20 you provide more details of the Court, sir, why you chose,
21 why you chose, as your search terms?

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A.

(b) (1) (B)

Q.

(b) (1) (B)

A.

(b) (1) (B)

Q.

(b) (1) (B)

A.

(b) (1) (B)

Q.

(b) (1) (B)

A.

(b) (2)

Q.

(b) (1) (B)

A.

(b) (1) (B)

Q.

(b) (1) (B)

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A.

(b) (1) (B)

[REDACTED]

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Q.

(b) (1) (B)

[REDACTED]

14
15

A.

(b) (1) (B)

[REDACTED]

16
17

Q.

(b) (1) (B)

[REDACTED]

18
19
20

A.

(b) (1) (B)

[REDACTED]

21

Q. And sir, when you looked at the State Department cables, did you do a keyword search for these as well?

1 A. I just did, [REDACTED]
2 (b) (1) (B) [REDACTED] I did not do [REDACTED] (b) (1) (B)

3 Q. Okay, sir. And, why did you select those as your search
4 terms?

5 A. Because I know for sure that that is a standing (b) (1) (B)
6 requirement, has been, and will be, and I was curious. That's one
7 one of the search terms I used, much (b) (1) (B) [REDACTED] I knew it was
8 a top issue for (b) (1) (B) [REDACTED]. I was searching the database for that area.

9 Q. [REDACTED]
10 (b) (1) (B) [REDACTED]
11 [REDACTED]

12 A. [REDACTED]
13 (b) (1) (B) [REDACTED]

14 Q. [REDACTED]
15 (b) (1) (B) [REDACTED]

16 A. [REDACTED]
17 (b) (1) (B) [REDACTED]

18 Q. [REDACTED]
19 (b) (1) (B) [REDACTED]

20 A. [REDACTED]
21 (b) (1) (B) [REDACTED]

22 Q. [REDACTED]
23 (b) (1) (B) [REDACTED]

24 A. [REDACTED]
25 (b) (1) (B) [REDACTED]

26 Q. [REDACTED]
27 (b) (1) (B) [REDACTED]

1 A. [REDACTED]
2 (b) (1) (B)

3 Q. [REDACTED]
4 (b) (1) (B)
5 [REDACTED]

6 A. [REDACTED]
7 (b) (1) (B)

8 Q. (b) (1) (B)
9 [REDACTED]

10 A. [REDACTED]
11 (b) (1) (B)

12 Q. And sir, [REDACTED]
13 (b) (1) (B)

14 A. (b) (1) (B)

15 Q. (b) (1) (B)

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

17 MJ: Yes?

18 ADC[MAJ HURLEY]: Foundation; I understood that he said the
19 (b) (1) (B) . We would
20 say that is not foundationally helpful to the opinion he is about to
21 render.

22 MJ: Did the (b) (1) (B)

1 WIT: I am not exactly sure of the whole spreadsheet of all of
2 the data that was provided there other than it was characterized as
3 (b) (1) (B)

4 MJ: I'm going to sustain the objection based on that
5 foundation.

6 TC[MAJ FEIN]: yes, ma'am.

7 Q. Sir, are there any other cases in your experience from 2008
8 to 2010 that involved the (b) (1) (B)
9

10 A. No.

11 Q. Okay, sir. So now just focusing on (b) (1) (B)
12 (b) (1) (B)

13
14
15 A. (b) (1) (B)

16 Q. (b) (1) (B)

17 A. (b) (1) (B)

18 Q. (b) (1) (B)

19
20 A. (b) (1) (B)

21
22

1 (b) (1) (B)

2 search----- (b) (1) (B)

3 MJ: Yes?

4 ADC[MAJ HURLEY]: Objection, ma'am. He said there were 900
5 documents. In his first testimony was that there were 900 hits
6 responsive to his inquiry which there could be multiple responses per
7 document. I guess we would just like to clarify that particular part
8 of his testimony.

9 MJ: You can do that on cross examination.

10 ADC[MAJ HURLEY]: yes, ma'am.

11 MJ: Go ahead.

12 A. Repeat the question?

13 Q. Absolutely, sir. Sir, what is your opinion on

14 (b) (1) (B)
15

16 A. (b) (1) (B)

17 Q. Okay, sir. And, how do you, or why do you believe this,
18 Sir?

19 A. Based on what

20 (b) (1) (B)
21

22 TC[MAJ FEIN]: May I have a moment, Your Honor?

1 MJ: Yes.

2 Q. Sir, I would like to now focus the testimony on the CIDNE-
3 Iraq database. Are you familiar with the CIDNE-I database?

4 A. I am.

5 Q. And sir, how are you familiar with the database?

6 A. I reviewed that database in preparation for my testimony.

7 Q. In your own words, sir, please describe the CIDNE-Iraq
8 database?

9 A. CIDNE-Iraq was the activities that the US forces were,
10 much like the CIDNE-A where how

11 (b) (1) (B)

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16

17 all of that.

18 Q. Sir, I am retrieving Prosecution Exhibit 112. Sir, I am
19 handing you Prosecution Exhibit 112, the stipulation of expected
20 testimony from Lieutenant Colonel Nehring. Sir, could you please
21 turn to page 3 and review paragraphs 9 through 13 and number 15 and
22 look up when you are finished?

1 [The witness did as directed.]

2 MJ: What were the paragraphs that you just said?

3 TC[MAJ FEIN]: Your Honor, paragraphs 9 through 13 and 15,
4 starting on page 3.

5 A. Okay.

6 Q. Sir, have you read this stipulation by Lieutenant Colonel
7 Nehring about CIDNE-I before?

8 A. Yes.

9 Q. And, what government information within the CIDNE-Iraq
10 database with the (b) (1) (B) in 2008 to 2010?

11 A. They would have all wanted that type of information.

12 Q. What type is that, sir?

13 A. All of the information contained--

(b) (1) (B)

14

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17 Q. And sir, how do you know at the (b) (1) (B)
18 were looking for that type of information from '08 to 2010?

19 A. (b) (1) (B) They would always want to
20 know how we are going to conduct a war in any type of environment.

21 Q. And sir,

(b) (1) (B)

22

1 A.

2 Q.

3 A. (b) (1) (B)

4 Q.

5 A.

6

7

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9 Q.

(b) (1) (B)

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11 A.

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13 Q.

14 A.

15

16 Q. Sir, do you have an opinion about how much

(b) (1) (B)

17

18 A.

19 Q.

20 A.

21 Q.

22

1 A. (b) (1) (B)

2 Q. Why is that, sir?

3 A. I looked at a very small sampling of the size of the
4 document. I only looked at around 40 or so documents and 10 to 12
5 percent contained significant information that I thought met this
6 requirement. The scope of that information, the number of that, I go
7 back, like the CIDNE-A, the most that

8 (b) (1) (B)
9
10

11 Q. Sir, I am retrieving Prosecution Exhibit from you.

12 Sir, I would now like to have you focus your testimony on the

13 (b) (1) (B) Are you familiar with a (b) (1) (B)

14 A. Yes.

15 Q. Sir, how are you, in general, familiar with what
16

17 A. (b) (1) (B)
18

19 Q. Do you use it at work, sir?

20 A. I do.

21 Q. Sir, are you familiar with
22 (b) (1) (B)

1 A. I am.

2 Q. And, how are you familiar with it, sir?

3 A. I reviewed that in preparation for my testimony.

4 Q. In your own words sir, how would you describe the one you
5 reviewed for this testimony?

6 A. I reviewed it

7 (b) (1) (B)

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13 Q. Sir, I am handing you Prosecution Exhibit

14 (b) (1) (B)

Could you please review that?

15 MJ: What number is that?

16 TC[MAJ FEIN]: (b) (1) (B) ma'am.

17 MJ: Okay.

18 A. Okay.

19 Q. Sir, could you briefly review that and look up when you are
20 done?

21 [The witness did as directed.]

22 A. I have seen--okay, yes. It is fairly long.

1 Q. Yes, sir. Sir, have you reviewed that document before your
2 testimony right now?

3 A. I have.

4 Q. Sir, what government information within (b) (1) (B)
5 (b) (1) (B) want in the 2008 to
6 2010 timeframe?--Or, if any of them, I do not want to presume it?

7 A. Yes. No, they would want it all, but not everything in it
8 probably.

9 Q. So, all three countries or just one, two or----

10 A. No, all want it.

11 Q. Okay sir, and what information in it would they all want?

12 A. It is (b) (1) (B)
13 (b) (1) (B)
14 (b) (1) (B)
15 (b) (1) (B)
16 (b) (1) (B)
17 (b) (1) (B)
18 (b) (1) (B)

19 All of that would be of
20 interest to the foreign intelligence service. (b) (1) (B)

21 (b) (1) (B)
22 (b) (1) (B)

1 (b) (1) (B)

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There is people

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Q. Sir, how do you know that

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A. It is part

(b) (1) (B)

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1 Q. And sir, how to you know the foreign intelligence services,
2 the (b) (1) (B) are looking for this (b) (1) (B)
3 information from 2008 to 2010 timeframe?

4 A. Other than just knowing it, I know it through the
5 (b) (1) (B)

6
7 Q. Sir, in the 2008 to 2010 timeframe, did the (b) (1) (B)
8 this type of information?

9 A. Yes.

10 Q. And how do you know that, sir?

11 A. Through (b) (1) (B) that were in against (b) (1) (B).

12 Q. And sir, in 2008 to 2010, how much did the (b) (1) (B)
13

14 A. Information--
15 (b) (1) (B)

16 . I

17 cannot think of a--I am
18 (b) (1) (B)

19 . I don't know how to equate that exactly.

20 That is

21 Q. Sir, do you have an opinion about (b) (1) (B)
22

1 A. Yes.

2 Q. And, how confident are you with that opinion?

3 MJ: Yes.

4 ADC[MAJ HURLEY]: Ma'am, foundation; he just said, "I do not
5 know how I would value this information." Those are the words the
6 witness just said.

7 MJ: Well, before he gives his opinion, ask him how he would
8 value the information and what the basis of it is.

9 TC[MAJ FEIN]: Yes, Ma'am.

10 Q. Mr. Lewis, you just testified that you have not personally
11 seen that (b) (1) (B) correct?

12 A. Right.

13 Q. What have you seen before that similar

14 A. [REDACTED]

15 (b) (1) (B)

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1 (b) (1) (B)
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5 Q. Sir, specifically you [redacted] What do you
6 mean by that, (b) (1) (B)

7 A. [redacted]
8 (b) (1) (B)
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10
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13

14 Q. Sir, in the 2008 to 2010 timeframe were the [redacted]
15 seeking information in reference [redacted]

16 A. They would have (b) (1) (B)
17 [redacted] Absolutely.

18 Q. Sir, what about (b) (1) (B)
19 [redacted]

20 A. That's----- [redacted]

21 Q. Is that information in 2008 to 2010 timeframe that the
22 were looking for?

1 A. Absolutely.

2 Q. Is that type of information contained within [REDACTED]

(b) (1) (B)

3

4 A. It is.

5 Q. Sir, did the [REDACTED] in the 2008 to 2010 timeframe [REDACTED]

(b) (1) (B)

(b) (1) (B)

6

7 A. That type of information, yes.

8 ADC[MAJ HURLEY]: Objection. He never talked about--Mr. Lewis

9 never talked about [REDACTED]

(b) (1) (B)

10 TC[MAJ FEIN]: I am sorry. I will rephrase.

11 MJ: Go ahead.

12 Q. Mr. Lewis, what would the [REDACTED]

(b) (1) (B)

(b) (1) (B)

13

14 A. They would.

15 Q. How do you know that?

16 A. [REDACTED]

(b) (1) (B)

17

18

19 [REDACTED] It is a market for that. Yes.

20 Q. Sir, in the 2008 to 2010 timeframes, did the [REDACTED]

(b) (1) (B)

21

22

1 A. That type of information, yes.

2 Q. And what do you mean----

3 A. Similar information to that, yes.

4 Q. Sir, have you had a chance to review that document in front
5 of you as (b) (1) (B)

6 A. I have.

7 Q. Sir, is that document consistent with the type of
8 information you just testified about of what the (b) (1) (B) in
9 2008 to 2010?

10 A. (b) (1) (B)
11 (b) (1) (B)
12 (b) (1) (B)
13 (b) (1) (B)
14 (b) (1) (B)
15 (b) (1) (B)
16 (b) (1) (B)
17 (b) (1) (B) to it
18 at all.

19 Q. Sir, I am sorry. So are you saying that that document is
20 the (b) (1) (B)

21 A. Well, it is but I would want to sort it a different way----

22 Q. Okay, sir.

1 A. ----than the way it is like this. This is looks like

2 (b) (1) (B) [REDACTED]
3 [REDACTED]

4 Q. Sir, how then does that document compare to the documents
5 you have seen between 2008 and 2010 (b) (1) (B) [REDACTED]

6 A. It just goes back to the type of information. Now were--
7 (b) (1) (B) [REDACTED]
8 [REDACTED]

9 [REDACTED] It is still the information need for what our
10 adversary was wanting in that theatre of operations.

11 Q. Sir, for that type of information did the [REDACTED]
12 (b) (1) (B) [REDACTED]

13 A. Yes.

14 Q. How do you know that, sir?

15 A. Based on the EEI that we learned that they wanted in the
16 (b) (1) (B) [REDACTED] ----

17 Q. And then how [REDACTED] ---- [REDACTED]

18 A. ----similar information.

19 Q. I am sorry, sir. Keep going.

20 MJ: Just a minute. [REDACTED]

21 (b) (1) (B) Yes? (b) (1) (B) [REDACTED]

1 ADC[MAJ HURLEY]: I am sorry, Your Honor. Objection,
2 foundation. He is not factored in on that this information that he
3 is looking at in the exhibit is similar to the information that he
4 re---- (b) (1) (B)

5 MJ: All right. I am going to overrule that. He has testified
6 that--is (b) (1) (B)
7 (b) (1) (B) (b) (1) (B)
8 So, overruled.
9 Proceed.

10 Questions by the trial counsel, MAJOR FEIN, continued:

11 Q. Sir, the question was (b) (1) (B),
12 (b) (1) (B)
13 A. (b) (1) (B)

14 .
15 Q. Sir, when you say that (b) (1) (B) is that the type
16 of document that you have been testifying about? Is it similar?

17 A. Yes.

18 Q. The same similar type of information that is in that
19 (b) (1) (B)

20 A. Yes. If it was--yes.

21 Q. How do you know that, sir?

1 A. [REDACTED]
(b) (1) (B)

2

3 Q. Sir, do you have an opinion about [REDACTED]

4

5 A. Yes.

6 Q. Sir, what is your opinion on [REDACTED]

7

8 A. (b) (1) (B)

9 Q. Why is that, sir?

10 A. Um, there is still some value to (b) (1) (B). There is still some
11 work that needs to be done with it. But it is such-- [REDACTED]

(b) (1) (B)

12

13

14

15 [REDACTED] I just think

16 that is probably what I would expect if I was--if we were going to

(b) (1) (B)

17 [REDACTED]; what I would expect.

18 Q. Sir, you have had in this block of testimony, you have

19 discussed volume. Was your--excuse me, sir. Sir, do you have an

20 opinion about [REDACTED]

(b) (1) (B)

21

22 A. Um-hmm. I have an opinion. Yes.

1 Q. Sir, how confident are you in that opinion?

2 A. Very.

3 Q. What is your opinion, sir?

4 A. (b) (1) (B) are more credible to any adversary.

5 When we--even in a--if it is a regular espionage case or (b) (1) (B)

6 (b) (1) (B), (b) (1) (B), those documents need

7 to be evaluated.

(b) (1) (B)

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17

18 Q. Sir, I asked you about, based off the , is you

19 opinion that is true for the , as well?

20 A. Yes. Absolutely.

21 TC[MAJ FEIN]: Your Honor, may I have a moment?

22 MJ: Yes.

1 [The trial counsel conferred.]

2 TC[MAJ FEIN]: Your Honor, I have no further questions.

3 MJ: All right.

4 MJ: Cross-examination?

5 ADC[MAJ HURLEY]: Yes, Ma'am.

6 WIT: Major Hurley.

7 TC[MAJ FEIN]: Ma'am, the United States is retrieving
8 Prosecution Exhibit (b) (1) (B) from the witness.

9 **CROSS-EXAMINATION**

10 **Questions by the assistant defense counsel, MAJOR HURLEY:**

11 Q. Good afternoon, Mr. Lewis.

12 A. Good afternoon, Major Hurley.

13 Q. Let's set the table first. What I want to talk about is
14 everything that you considered in coming to these valuation opinions,
15 okay?

16 A. Okay.

17 Q. So you considered your experience?

18 A. Yes.

19 Q. You considered your memory of these counterintelligence
20 operations and investigations?

21 A. Part of my experience, I would make that one. But----

22 Q. Okay. Well, we will.

1 A. Okay.

2 Q. So you considered your experience and your memory together?

3 A. I would--yes.

4 Q. Now did you consider at all the thing that

5 pulled for you? The EEI?

6 A. Did I consider----

7 Q. The EEI that she pulled for you----

8 A. Right.

9 Q. ----in January 2013?

10 A. Did I----

11 Q. Did you consider it?

12 A. Did I review that document?

13 Q. Yes.

14 A. Yes.

15 Q. All right. And then finally, you considered the thing that

16 [REDACTED]
17 (b) (1) (B)

17 A. [REDACTED]

18 Q. [REDACTED] pulled for you, as well?

19 A. Yes.

20 Q. Okay. So first off we are going to talk about the EEI.

21 A. Okay.

22 Q. So the EEI was pulled at your direction?

1 A. Yes.

2 Q. Pulled by

3 A. Yes.

4 Q. Pulled for the purpose of helping you prepare to testify in
5 this trial?

6 A. Yeah.

7 Q. The EEI contains roughly three blocks of information.
8 First it contains the country?

9 A. Okay.

10 Q. Is that right-----

11 MJ: What do you mean, countries--okay.

12 Go ahead.

13 A. Yes.

14 Q. The country who has purported to be interested in certain
15 bits of information?

16 A. Yes.

17 Q. It also contains the information that they are purportedly
18 interested in, correct?

19 A. Okay.

20 Q. That-----

21 A. You said purportedly. What do you mean by that?

1 Q. Well, I am sorry. It contains the country that has

2 (b) (1) (B)

3 A. Yes.

4 Q. The EEI does?

5 A. Right.

6 Q. The one that (b) (1) (B) --the one (b) (1) (B) pulled for
7 you?

8 A. Yeah.

9 Q. It also contains what information that (b) (1) (B)

10 (b) (1) (B)

11 A. Who?

12 Q. What information----

13 A. I just want to make sure that I understand when you said

14 (b) (1) (B)

15 Q. I meant the country?

16 A. Okay.

17 Q. So it's got the country?

18 A. Yes.

19 Q. It's got the country's info that

(b) (1) (B)

20 A. Yes.

21 Q. And it's got an ID number?

22 A. Yes, sir.

1 Q. Okay. In a conversation earlier today you told me that ID
2 number was an internal administrative number?

3 A. I did.

4 Q. You also told me that (b) (1) (B) could pull the information
5 for you that was underlying a specific bit of EEI?

6 A. She could have.

7 Q. So in one of the bits of

(b) (1) (B)

8

9

10 A. Okay.

11 MJ: Wait.

12 Q. Any memory of that?

13 A. I don't remember specifically that EEI

(b) (1) (B)

14 But I will trust you it's on there.

15 Q. Well, let's just say for example----

16 A. Could I re----

17 Q. ----let's just use this as a hypothetical example----

18 MJ: Okay. I am going to ask the witness, Mr. Lewis, when you
19 are asked a question and you are not sure, don't say, "Okay" like you
20 agree. Just say I don't understand the question, I don't agree or I
21 can't answer that.

22 WIT: Okay, ma'am.

1 MJ: Go ahead.

2 Q. Certainly you could review that document if you wanted.
3 Would you like to really quick?

4 A. I believe you it is on there.

5 Q. Okay. And this is just an example.

6 A. Okay.

7 Q. I am not holding you to this.

8 A. Okay.

9 Q. I am not holding you to these facts. So what (b) (1) (B)
10 could have done if you had expressed interest in that information,
11 she could have pulled all of the information that she had that led
12 her to include information about (b) (1) (B),
13 correct?

14 A. Yes. If I can----

15 Q. Okay.

16 A. ----if I can further explain that.

17 Q. Go right ahead.

18 A. What that number would have done, it ties it back to the
19 report----

20 Q. Right.

21 A. ----that the case officer had prepared where that EEI was
22 listed.

1 Q. Sure.

2 A. And it would have given multiple things that happened in
3 that meeting, to include when--how that EEI was asked for.

4 Q. Right. So and (b) (1) (B) could have done that at your
5 direction?

6 A. She could have done that, yes.

7 Q. Certainly. All right. Now, we are going to move on what
8 (b) (1) (B) pulled for you.

9 A. (b) (1) (B)

10 Q.

11 A. All right.

12 Q. I keep renaming that guy. What (b) (1) (B) pulled for you.

13 A. Okay.

14 Q. What he pulled for you were successful counterintelligence
15 operations?

16 A. No.

17 Q. No, I am sorry. He pulled for you the (b) (1) (B)
18 correct?

19 A. [No response.]

20 Q. That corresponded to successful offensive (b) (1) (B)
21 counterintelligence operations?

22 A. That was part of it. I could----

1 Q. Please go forward with----

2 A. Specifically what I asked for was the most successful

3 (b) (1) (B) over the last several years.

4 Q. Right.

5 A. And then subsequently, the least (b) (1) (B)

6 (b) (1) (B) from indicating for whatever reason that

7 there was a low end of what--trying in my mind what the (b) (1) (B)

8 (b) (1) (B) --if that was what was on the list the most the

9 (b) (1) (B)

10 Q. Right.

11 A. That type of thing. That was--that is what I had him pull
12 for me.

13 Q. It didn't include any--what he pulled did not include any
14 failed operations, only successful operations?

15 A. That is true because there wouldn't have been

16 (b) (1) (B)

17 Q. Right. So you considered those three things?

18 [sic] information?

19 A. (b) (1) (B)

20 Q. (b) (1) (B) The (b) (1) (B) information. And then your memory and
21 experience?

22 A. Yes.

1 Q. That is how you arrived at your conclusions?

2 A. Yes.

3 Q. All right. So, just to clarify, in your career have you
4 ever valued information from the Department of State before?

5 A. No.

6 Q. Have you ever in your career valued information CIDNE-Iraq
7 database before?

8 A. No.

9 Q. Have you ever in your career evaluated information from the
10 CIDNE-Afghanistan database before?

11 A. No.

12 Q. Have you ever in your career evaluated information that
13 those detainee assessment briefs before?

14 A. No. No.

15 Q. Have you ever in your career evaluated the information--a

16 (b) (1) (B)

17 A. No.

18 Q. How long did you spend reviewing these charged documents?
19 Let's go by each document. How long did you spend reviewing the
20 Department of State information?

21 A. An hour. Hour and a half.

1 Q. How long did you spend reviewing the CIDNE-Iraq
2 information?

3 A. Probably several hours--um, just----

4 Q. Just CIDNE-Iraq.

5 A. Um, I'd have a hard time separating that because Iraq and
6 Afghanistan, they were back-to-back.

7 Q. All right.

8 A. Hour and a half to 2 hours for both.

9 Q. So for combined, both the CIDNEs, Iraq and Afghanistan, was
10 2 hours max?

11 A. Max.

12 Q. So--gotcha. How long did you spend reviewing the [REDACTED]
13 (b) (1) (B)

14 A. Um, an hour-and-a-half.

15 Q. How long did you spend reviewing the [REDACTED] (b) (1) (B)

16 A. An hour, max.

17 Q. All right. So let's go through these as in the order in
18 which the government went through them, all right?

19 A. Okay.

20 Q. So the first thing we are going to go through is the CIDNE-
21 Afghanistan database, okay?

22 A. Okay.

1 Q. Great. So what you did with the CIDNE-Afghanistan database
2 was you looked at about 40 records?

3 A. I think that is what I've testified to. Yes.

4 Q. Did you pull these records yourself from the database?

5 A. These were part of the charging documents.

6 Q. How did--let's re-ask this question, Mr. Lewis.

7 A. Okay.

8 Q. How did those documents get in front of you?

9 A. The prosecution team helped me--provided----

10 Q. They just sat you down with a binder and all of the
11 documents were in the binder?

12 A. For those--there were a couple--yes. For that, yes.

13 Q. Did you look through the records yourself----

14 A. Yes.

15 Q. ----or did they help you look through?

16 A. No. I read them all myself.

17 Q. All right. And by "all of them" you mean 40 of them?

18 A. For that. Yes.

19 Q. And you found about 10 that were, in your mind, a
20 responsive to the search queries that you were making?

21 A. I think it--I can't remember the specific number. What I
22 remember specifically is for CIDNE-A----

1 Q. Um-hmm.

2 A. ----would have been about 30 percent. So it must have been
3 a little--either 36 documents and I found 12; or around 30 percent
4 for CIDNE-A is what I thought responsive to what I knew was
5 consistent with what our foreign adversaries would want.

6 Q. Sure. Now before you started this process, did you write
7 down the keywords that you were going to be looking for?

8 A. No. I just read those.

9 Q. Right. So you just read the documents and then found as
10 you went through these are the responsive records?

11 A. Based on my experience I know that these are the things
12 that would be of interest to the foreign adversaries?

13 Q. Right. But there was not that up-front process of
14 identifying the words specifically you were looking for?

15 A. No.

16 Q. All right. So you find these records that you believe to
17 be responsive. Now what did--and you compared them with in this
18 instance with CIDNE-Afghanistan, you compared them with your memory,
19 right?

20 A. When I am reading the document, yes.

21 Q. Right.

1 A. As an intelligence professional, the types of information
2 that we knew a foreign adversary would be interested in, yes.

3 Q. So you compared it with your memory those documents?

4 A. Yeah.

5 Q. Now did you ever compare them with (b) (1) (B) specific EEI
6 that you asked her to pull in January 2013?

7 A. That would--yeah. In that case, that also added to my
8 knowledge of what was on that report.

9 Q. But did you look at the responsive records and then look at
10 the EEI that (b) (1) (B) pulled for you or were you just thinking
11 about it as you were looking at the record?

12 A. Probably a little of both.

13 Q. All right. So it is possible that you had the EEI with you
14 at the time?

15 A. Yes.

16 Q. Now, this review happened last week? This review that we
17 are talking about?

18 A. Yes.

19 Q. The hour or so that you spent on CIDNE-Afghanistan?

20 A. Yeah.

21 Q. So you reviewed the documents, you remembered yourself a
22 few things, you looked and you saw the EEI from (b) (1) (B) Now from

1 the things that you remembered yourself, did you ever--did you write
2 anything down about the things that you remembered yourself?

3 A. No.

4 Q. Did you ever take this information in your memory and go
5 back to source documents to verify that your memory of the source
6 documents comports with what's actually in those documents that gave
7 you the memory?

8 A. You mean outside of the EEI list?

9 Q. Right.

10 A. No.

11 Q. I'm glad you brought up the EEI list. So you read these
12 documents that you felt were responsive to the EEI information.
13 Right?

14 A. Yes.

15 Q. And the EEI information, it was laid out by country.
16 Right?

17 A. Yes.

18 Q. Laid out by topic and (b) (1) (B)

19 A. Yes.

20 Q. And it was laid out also by this ID number?

21 A. Yes. Well, the ID number was there.

22 Q. Right.

1 A. I don't know how that fit in with cert--with the data.

2 Q. Sure.

3 A. I know what it means but----

4 Q. But what the ID number could have done was give you
5 something to give back to (b) (1) (B) to say, (b) (1) (B) would you
6 pull this information so that I can look at it again?"

7 A. Right.

8 Q. It would have given you that capability?

9 A. It would have.

10 Q. But did you do it?

11 A. No.

12 Q. Did you--and you didn't do it for any one of the documents?

13 A. No.

14 Q. You didn't do it for any of the documents?

15 A. Go back--to go back and ask for more info----

16 Q. Go to (b) (1) (B)

17 A. No.

18 Q. And you didn't go back for any of the document to that
19 space in your brain and say, you know what; I am going to go back and
20 search again to find this information?

21 A. No.

1 Q. Now you testified that during this time [REDACTED]

(b) (1) (B)

2

3 A. That is what we had----

4 Q. From 2008 to 2010?

5 A. Yeah, that we had learned (b) (1) (B)

6 Yes.

7 Q. Did you ever do anything to go back into those records and
8 see exactly by the [REDACTED]

(b) (1) (B)

9

10 A. No.

11 Q. For any of those documents that--when you were thinking to
12 yourself (b) (1) (B), you never went back and
13 said let me get a better description of that?

14 A. Well, no I did not. I felt comfortable with (b) (1) (B) from the
15 standpoint of (b) (1) (B)

16 So I knew that the [REDACTED]

(b) (1) (B)

17

18

19

20 Q. Right.

21 A. When it comes to that from the EEI and what we were
22 providing. I just didn't feel a need to go back and----

1 Q. So comfortable you never looked back?

2 A. Okay. Yes.

3 Q. Is that an accurate description?

4 A. I don't----

5 Q. That you were so comfortable in your knowledge you never
6 checked?

7 A. I don't know if comfortable. I think secure in my
8 knowledge. Comfortable is a little casual.

9 Q. Right. Sure.

10 A. But I felt like I knew what I was talking about. So
11 certainly----

12 Q. So secure in your knowledge that you didn't even need to
13 check.

14 A. Okay. Yes.

15 Q. Is that accurate?

16 A. I would say yes.

17 Q. Okay. So this (b) (1) (B) [REDACTED]
18 [REDACTED] that you provided the government,
19 right?

20 A. It is.

21 Q. Right. And the (b) (1) (B) [REDACTED]
22 records?

1 A. No. It was a review of the totality of the database based
2 on the sample that I reviewed.

3 Q. Right, and how many records did you review with the CIDNE-A
4 database?

5 A. About 40.

6 Q. Right. So you reviewed 40 records, you thought (b) (1) (B)

7 (b) (1) (B) or so; right? That was one of your givens?

8 A. Yes.

9 Q. And that's based on your memory?

10 A. Yes.

11 Q. Then you thought, well, let me just multiply

12 (b) (1) (B)

13

14

15 Is that about right?

16 A. No. I don't think I did it quite that way.

17 Q. How did you do it?

18 A. I think if you look at the totality of the information, the
19 sample of the information, it was--seemed consistent that the reports
20 were prepared the same way and had the same types of information as
21 you go across there. Even of the ones I read, a group of those fit
22 where all of them would have been of value to the foreign

1 intelligence service. When you look at the ones that really had some
2 meat on the bones, some things they

(b) (1) (B)

3
4
5
6
7
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10
11
12

13 Q. Right. And it was a conservative guess?

14 A. I think so.

15 Q. But it was a guess?

16 A. It's my opinion based on my knowledge and my experience.

17 Q. Right. And the likes of which you've never given before,
18 ever?

19 A. Specifically like?

20 Q. Specifically like this.

21 A. You mean----

22 Q. In the opinion you just rendered?

1 A. You mean as an expert?

2 Q. Yes.

3 A. That's correct.

4 Q. Right. So let's talk about the (b) (1) (B)

5 As I recall you indicated that you valued the (b) (1) (B)

6 (b) (1) (B) ; (b) (1) (B) ?

7 A. That would be the--yeah, that was----

8 Q. (b) (1) (B)

9 A. Mostly (b) (1) (B) .

10 Q. Mostly (b) (1) (B) ?

11 A. --I confused everyone with (b) (1) (B) .

12 Q. All right.

13 A. (b) (1) (B) .

14 Q. So the (b) (1) (B) Thanks for
15 clarifying.

16 A. Same type of TTP information that we've seen consistent
17 across those operations. Yes.

18 Q. So let's go through this again. So with the

19 (b) (1) (B)

20 A. That's about right. Yeah.

21 Q. And you read those (b) (1) (B) and that took you about an
22 hour?

1 A. I think that is what I said. Yes.

2 Q. Right. And at the end of that time as you looked through
3 those documents, did you consider the EEI that (b) (1) (B) pulled for
4 you?

5 A. Not really. Not at that time. No.

6 Q. Did you consider the data pull that (b) (1) (B) [sic] did
7 for you?

8 A. (b) (1) (B) .

9 Q. I'll never get it right and I----

10 A. We'll just call him (b) (1) (B)

11 Q. ----I apologize. Right. It may save us time.
12 did for you. Did you consider it?

13 A. Not at the time I was reviewing them. No.

14 Q. The only thing you were considering was your memory?

15 A. Experience.

16 Q. Right. Your experience and what you remembered?

17 A. No. Experience and what I know through my experience what
18 would be of interest to a foreign intelligence serve.

19 Q. Right. Did you consider any physical, tangible thing?

20 A. At the time I read them? No. I was reading them to
21 acquaint myself with them; the types of information that was in

1 there; and identify the types of information I thought would be of
2 interest to the foreign intelligence services.

3 Q. So from your memory you thought of the information that was
4 contained in (b) (1) (B)

5 [REDACTED] Right?

6 A. From my experience I know that [REDACTED]

7 (b) (1) (B)

8 Q. [REDACTED]

9 A. Or want to know more about.

10 Q. So from that you went to--you again, you delved into your
11 experience. Right? You read (b) (1) (B) and you reviewed your
12 experience. Is that accurate?

13 A. I think that was an on-going--I don't think it was a
14 separate thing. I think as I am reading them I am applying what I
15 know what would be of interest to a foreign intelligence service when
16 I've seen how--what was the format of the documents, they got to be
17 where they're--there is the military, so there is a format there----

18 Q. Right.

19 A. ----it is always the same. You can start going through the
20 specific areas and see some consistency in what you were seeing in
21 those types of documents.

1 Q. Did you--before you started this-- (b) (1) (B) the
2 same question I had for CIDNE-A. Did you write down any key words?
3 Like here are the things I am going to be looking for?

4 A. No.

5 Q. So after you reviewed the (b) (1) (B)

6 (b) (1) (B)

7

8

9 A. No. When I was reading them, I was reading them to see the
10 types of information that were in there and then recognizing what
11 would be of interest to the foreign intelligence service so that I
12 had that knowledge then.

13 Q. So after the recognition, you thought of these bits of
14 information that (b) (1) (B). Correct?

15 A. Yes.

16 Q. And you thought of the bits of information that (b) (1) (B)

17 (b) (1) (B)

18 A. Right.

19 Q. And that you thought that this is the information that

20 (b) (1) (B)

21 A. And also remember--I also know that the (b) (1) (B) have asked
22 in (b) (1) (B).

1 Q. Right.

2 A. Okay.

3 Q. Did you ever go back to the information that gave you the
4 understanding that

(b) (1) (B)

5

6 Did you ever

7

8

9 A. No. I was never looking for the exact document. I was
10 looking for the types of information I knew that would be of interest
11 because the EEI in most times, is not really specific. It is a type
12 of information. The nuance

(b) (1) (B)

13 (b) (1) (B)

14 So we're really
15 talking about the same types of information.

16 Q. Right.

17 A. Not specific documents that existed in any one place.

18 Q. But you never went back there at all, did you, Mr. Lewis?

19 A. Back to where?

20 Q. When you looked at the

(b) (1) (B)

21 A. Right.

1 Q. ----you never went back to this (b) (1) (B)

2 (b) (1) (B)

3
4
5 A. As I stated earlier when we were talking about I am
6 very confident and I know that within the CENTCOM area, the
7 information--

8 (b) (1) (B)

9
10
11
12
13 Q. But did you ever check, Mr. Lewis?

14 A. Check for each individual document? No.

15 Q. For the stuff that is

16 (b) (1) (B)

17
18 A. I know it is similar.

19 Q. But you never checked, did you?

20 A. I don't have to check. I know it is similar.

21 Q. Mr. Lewis, if you would just listen to this question.

22 A. I'm--okay.

1 Q. Did you check-----

2 A. No.

3 Q. Thank you.

4 A. I didn't need to check.

5 Q. But-----

6 A. In the CENTCOM area of operations-----

7 Q. Right.

8 A. ----- (b) (1) (B)

9 (b) (1) (B) It is similar information. It is not like hmm. In that
10 area I am very comfortable; I am very satisfied with my answers. In

11 CENTCOM (b) (1) (B)

12

13

14

15 Q. And you didn't this time either.

16 A. I don't have to.

17 Q. Okay. Let's talk about (b) (1) (B) You said that the

18 (b) (1) (B)

19 Is that right?

20 A. State Department cables?

21 Q. The ones that were--yes. State Department cables.

22 A. Yes. Yes, sir.

1 Q. In this instance you did a keyword search.

2 A. It was a database.

3 Q. Right. So you were looking--you were searching on a
4 computer?

5 A. I was.

6 Q. So in this instance did you write down the keywords that
7 you were going to be looking for?

8 A. Nope.

9 Q. You just went off your memory?

10 A. I know them.

11 Q. Right.

12 A. I knew what I wanted to look for.

13 Q. Now, you've considered, obviously, you considered your
14 experience when you were doing this?

15 A. Yes.

16 Q. Did you consider (b) (1) (B) [sic] document?

17 A. Not (b) (1) (B) document. No.

18 Q. Did I get it right that time?

19 A. No. It was (b) (1) (B)

20 Q. Okay----

21 A. We will go with that.

22 Q. Right. You have these days.

1 A. I don't know why you can't remember that Major Hurley?

2 Q. I don't know why either.

3 right?

4 A. (b) (1) (B)

5 Q. I am going to get it. I feel confident.

6 A. I hope so.

7 Q. You didn't consider [redacted] or you did consider

8 (b) (1) (B)

9

10 A. I was aware of the EEI. Yes.

11 Q. Did you consider (b) (1) (B) document?

12 A. (b) (1) (B) Um, no.

13 Q. All right. Okay, so you do the search and you pulled up a

14 cable.

15 A. (b) (1) (B)

16 Q.

17 A.

18 Q.

19 A. Um-hmm.

20 Q. As you recall there were about 900 responses to that?

21 A. Yes.

22 Q. Were there 900 responses or 900 documents?

1 A. I can't tell you that.

2 Q. All right. So you look at the first cable and it contains

3 (b) (1) (B)

4
5 A. Yes.

6 Q. Then as you were looking at it you compared it to, again,

7 at this point it was your memory,

8 (b) (1) (B)

9 A. My knowledge. Yes.

10 Q. Your knowledge.

11 A. Knowledge and experience.

12 Q. Sure. All right. What do you think the best word is. Is
13 it knowledge, experience or memory? And----

14 A. I don't like memory.

15 Q. Okay. So we will go with experience?

16 A. I think it is based on my experience.

17 Q. That's the word I will use. So you used your experience.

18 Now, your experience, in your mind, you were thinking of one

19 particular document or a particular document that was similar to the
20 information that you saw, right?

21 A. No.

22 Q. This is using your experience.

1 A. I think I know that the [REDACTED]

2 (b) (1) (B)

3 [REDACTED]

4 Q. Right.

5 A. So I just know that.

6 Q. Sure.

7 A. So when I am reading those documents it is matching exactly
8 what I know the (b) (1) (B) .

9 Q. No need to go back to look at the documents that created
10 your experience. No need to go back there?

11 A. Absolutely not.

12 Q. You just knew?

13 A. The (b) (1) (B)

14 [REDACTED] .

15 Q. Right.

16 A. I know that.

17 Q. And you knew that this information was responsive to it
18 because you spent--how long did you spend reading each cable?

19 A. Going through, looking for where the keyword--where the
20 title is coming up; looking at the meat, the data there. Once you
21 get--you are reading exactly what is being said about that, not the
22 whole cable----

1 Q. Right.

2 A. ----but who was saying what to whom in those documents.

3 Q. Right. So you read that, read it for about a minute?

4 A. I don't know exactly how long it would be.

5 Q. So it----

6 A. There was more information in some than there were in
7 others.

8 Q. Right. So was it longer than a minute for each one?

9 A. I don't know how to answer that.

10 Q. Okay. Some amount of time was spent looking at it?

11 A. I spent time. Yes.

12 Q. And you never went back for all of those cables that you
13 found or all of that data you found you never went back and verified
14 that it was the same or similar information?

15 A. Nope. It was similar--same information. I mean there is
16 only so many ways you can characterize [REDACTED]

17 (b) (1) (B) [REDACTED] . So when

18 you read through there if you know that is what the [REDACTED]

19 (b) (1) (B) [REDACTED] and you are reading that, that is what they are

20 interested in. I didn't have to go back and find an underlying or

21 supporting document. It is about what's (b) (1) (B) [REDACTED] .,

22 (b) (1) (B) [REDACTED] . It is what the documents

1 were about. I was very confident in my experience that was exactly
2 what the information is.

3 Q. This is going to be how it ends every time, Mr. Lewis? So
4 confident that you didn't need to check?

5 A. I don't know what you want me to check.

6 Q. Did you check or not?

7 A. Check what, Major Hurley?

8 Q. Check the documents, the underlying documents that gave you
9 your experience. Did you ever go back and check for any of them?

10 A. [REDACTED]
11 (b) (1) (B)

12 Q. So [REDACTED] EEI told you that?

13 A. That is not [REDACTED] EEI.

14 Q. The EEI that was pulled by (b) (1) (B) [REDACTED] that gave you that
15 information?

16 A. That's the (b) (1) (B) [REDACTED]

17 Q. Right. I apologize for my----

18 A. No, no. I just want to make sure from a nuance standpoint.
19 This isn't [REDACTED] making this up. This is from the reports that
20 we got from the (b) (1) (B) [REDACTED].

21 Q. Right. So did you consider what (b) (1) (B) [REDACTED] pulled for you?
22 That EEI when you were doing this?

1 A. Consider? What do you mean consider?

2 Q. Was it in your mind as you were skimming through these
3 documents?

4 A. Yes. Yes.

5 Q. But did you have it in front of you?

6 A. When I was viewing those--specifically were those
7 documents--no because those keywords are--I didn't need any
8 supporting documentation for that.

9 Q. It was all from memory?

10 A. Experience.

11 Q. Experience. Let's talk about CIDNE-I now. We are just
12 going to go through a similar process, Mr. Lewis, with respect to
13 CIDNE-I. With CIDNE-I you considered about 40 records?

14 A. I think that was the sample. Yes.

15 Q. Roughly the same number that you considered with CIDNE-A?

16 A. Basically. Yes, sir.

17 Q. With CIDNE-I did you have (b) (1) (B) document in front of
18 you?

19 A. Not at the time when I was reviewing it. No.

20 Q. Did you have (b) (1) (B) document in front of you.

21 A. No. Very good.

1 Q. Thanks. One time. So all of this was going off of your
2 experience?

3 A. I was reading it to get of my experience the intelligence
4 value that was contained in those documents. Yes.

5 Q. So as you were going through there you, again, did you ever
6 compare what was in those documents and you found a number of
7 responsive records?

8 A. Yes.

9 Q. Did you ever compare what was in those documents to any
10 original source material?

11 A. No.

12 Q. Now you said [REDACTED]

13 (b) (1) (B)

14 A. That was my low estimate. Yes, sir.

15 Q. That estimate, again, this is the first time you've offered
16 any such estimate with respect to the CIDNE-I database?

17 A. Yes.

18 Q. Now, I guess getting back to comparing these documents, did
19 you ever as you were looking at it, you knew so well that the--in
20 this case, [REDACTED]

21 (b) (1) (B)

22

1 A. My answer is going to be the same as it was for
2 Afghanistan. We know what their TTP was--I mean, we know what their
3 EEI was. So we know the types of information that

4 [REDACTED] Okay? That CENTCOM

(b) (1) (B)

5 [REDACTED]
6 [REDACTED]
7 [REDACTED]. The same type of information. Did I go back and look for
8 every, single document (b) (1) (B) if that was it? No, sir.
9 I did not.

10 Q. Let's talk about the (b) (1) (B). Before the
11 government showed you (b) (1) (B) or before the first
12 time you reviewed it, had you ever seen one before?

13 A. Electronically.

14 Q. Right.

15 A. You know where you go one your email account and you pull
16 up--you're looking for someone. I've never seen it printed out.

17 Q. And again, you first used your experience, right?

18 A. Yes, sir.

19 Q. Did you use (b) (1) (B) document?

20 A. I was aware of the EEIs on that document. Yes.

21 Q. Did you use (b) (1) (B) document?

22 A. No. No.

1 Q. So did you ever, this is the last time maybe I will ask
2 you; did you ever go back to these source documents and review the
3 information that gave you your experience with respect to

(b) (1) (B)

4
5 A. No. In that case where they--when I know where the

(b) (1) (B)

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7
8
9
10
11 Q. Let's use the CIDNE-Iraq database. Do you recall what
12 specific information was in the CIDNE-Iraq database that--and just
13 one or two topics, that you felt

(b) (1) (B)

14
15 A.

16
17
18
19 Q. Sounds good. So I got about four out of that.

20 A. Oh, I thought that was one but okay.

21 Q. Well, I got IED attacks, perpetrators----

22 A. Okay.

1 Q. ----so with respect to those specific areas, there was--you
2 never vetted those areas against any known set of data, right?

3 A. Other than knowing that the [REDACTED]

4 (b) (1) (B)

5 Q. Right.

6 A. That was the basis for my knowledge--my expertise on that.

7 Q. Just you--yeah, just your experience?

8 A. As well as experience and what we know the [REDACTED]

9 (b) (1) (B)

10

11 Q. With respect to each estimate, you indicated that you were
12 confident in your estimates. Is that right?

13 A. I was----

14 Q. Do you recall doing that?

15 A. I am confident because I went low----

16 Q. You could be wrong----

17 A. ----of what I----

18 Q. ----though?

19 A. I--it is my opinion.

20 Q. But you could be wrong?

21 A. It's my opinion.

22 Q. Right. And sometimes opinions are wrong, right?

1 A. Is that a question?

2 Q. It is. Are sometimes opinions wrong, Mr. Lewis?

3 A. Yes.

4 Q. Especially when it is the first time you have ever done it
5 or your first time you've ever rendered an opinion?

6 A. An opinion like this. This is the first time.

7 Q. Right and sometimes when we are inexperienced we don't
8 necess--that's when we are prone to a mistake?

9 A. I would say my experience isn't based on giving opinions.
10 My experience is based on the information that is being--that we are
11 talking about here. That is my experience.

12 Q. Right.

13 A. Saying yes or no; left or right; I don't need experience in
14 that. It is based on what I know and what I've done for almost 30
15 years.

16 Q. Right. Although what you've done for almost 30 years isn't
17 give opinions, is it?

18 A. No. Well, maybe to some people but unsolicited.

19 Q. Let's go back to the [REDACTED] What
20 specific information did you find in the [REDACTED] (b) (1) (B)
21 [REDACTED]

1 A. The thing that concerned me the most on the information
2 that was in there was the reports of the intel value that we were

3 (b) (1) (B)

4
5
6
7

8 Q. Can you remember one [REDACTED]
9 that you reviewed?

10 A. Not at the moment. No.

11 Q. So you can't even--so from (b) (1) (B) [REDACTED]
12 (b) (1) (B) [REDACTED] you can't remember bit of data?

13 A. Specific--no. Would you like to refresh my memory? If you
14 have a question about one, I can review one and you can ask me why I
15 felt that way about it.

16 Q. Okay. Thank you for laying that out for me, Mr. Lewis. I
17 don't want to refresh your memory. I just want to know if sitting
18 here you could--you had an independent memory of any (b) (1) (B) [REDACTED]
19 (b) (1) (B) [REDACTED] and you said you didn't. Is that right?

20 A. That is correct.

1 Q. And I further asked you if you could remember any specific
2 fact in (b) (1) (B) and you said you couldn't. Is
3 that right?

4 A. Then that would be a wrong answer. A specific fact, I can
5 tell you--no, I cannot; a specific fact. I can tell you what is in
6 the reports that would be of interest to a foreign intelligence
7 service.

8 Q. Right. Let's talk about the cables. Again, and we will
9 just sort of go through each one of these topics. Can you remember a
10 specific fact that you found in the NET-CENTRIC Diplomacy database, a
11 specific fact?

12 A. This is the State Department cables, right?

13 Q. State Department stuff, yes.

14 A. (b) (1) (B)

15 (b) (1) (B)
16 Q. Sure.

17 A. (b) (1) (B)

18 Q. What I am looking for is a specific fact. Just not that--
19 that was very general or that--my opinion about that answer, Mr.
20 Lewis, was it was general. What I am looking for is a specific fact.

21 A. Without reviewing any of those documents, remembering a
22 specific fact sitting here; no, sir.

1 Q. How about in the CIDNE-I database. Can you remember a
2 specific fact; the CIDNE-I database?

3 A. I guess I am getting hung up on the word "fact". Do you
4 mean a specific detail from a specific report or the fact that
5 (b) (1) (B) all in those documents; those are both facts to
6 me.

7 Q. Okay.

8 A. Which would change my answer--previous couple of answers---
9 -

10 Q. Give me one TTP then?

11 A. ----on that.

12 Q. I am sorry to interrupt you, Mr. Lewis. Did--were you able
13 to answer that question?

14 A. No. I was just going to say when I was thinking about when
15 you said a "fact", to me a fact would be that there is information of
16 intelligence value in that report. That is a fact. If you were
17 asking me

18 No, I don't think I could tell you that, Major Hurley.

19 Q. Can you tell me----

20 A. But I can tell you that specifically in CIDNE-I, which you
21 just said, one particular fact

22 (b) (1) (B)

1 (b) (1) (B)
2 [REDACTED] yes, by a fact, I know that is in a CIDNE-I report
3 cause I read that. Do I remember specifically what town, what day it
4 was, those types of details; no, sir. I can't do that.

5 Q. You don't remember or the report didn't indicate what we
6 would use. Did it Mr. Lewis?

7 A. Um----

8 Q. The report indicated what is used on a particular day. Is
9 that right?

10 A. Yes.

11 Q. Right. That is what it said. It didn't say what (b) (1) (B)
12 [REDACTED] it just said that on this day, with
13 this attack, we used these things. Is that right?

14 A. Yes, sir. But as a compilation of all those things, [REDACTED]

15 (b) (1) (B)
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED] I mean, those are things that are all contained in
20 there that it is almost like a living document, if you will, of
21 things that were happening and written by those people on the ground
22 at that time. It is a snapshot in time, (b) (1) (B)
[REDACTED]

(b) (1) (B)

1 [REDACTED]

2 [REDACTED] But as----

3 Q. It is how we responded, right? A SIGACT talks about an
4 event in the past. Correct?

5 A. Yes, sir. It's a report. Yeah.

6 Q. Right. A report about what happened, right?

7 A. Yes, sir.

8 Q. Do you accept that there is a difference between [REDACTED]

(b) (1) (B)

9 [REDACTED]

10 [REDACTED]

11 A. Do I see a difference there?

12 Q. Yes.

13 A. No, sir.

14 Q. You don't?

15 A. How that--I think--the report of what happened that [REDACTED]

(b) (1) (B)

16 [REDACTED]

17 [REDACTED]

18 Q. No. It's----

19 A. I mean, he we--how we are going to-- [REDACTED]

(b) (1) (B)

20 [REDACTED] I don't see the difference there. I
21 am sorry.

1 Q. Sir, you don't see the distinction between doctrine and a
2 historical record?

3 A. Yes. I see the difference between the two. Yes, sir.

4 ADC[MAJ HURLEY]: Okay. Thank you. One moment, Mr. Lewis
5 and, ma'am, if I may have a moment?

6 MJ: Go ahead.

7 [The defense counsel conferred.]

8 ADC[MAJ HURLEY]: Ma'am, that concludes the examination. What
9 we would do is move to strike Mr. Lewis' testimony with regards to
10 evaluation. That motion would be based on M.R.E. 702. It doesn't
11 have a specific factual basis and it is not done on reliable
12 principles and methods.

13 MJ: All right.

14 I've already ruled on that motion but I understand why
15 you're doing it again after the foundation. (b) (1) (B)

16 (b) (1) (B) It is denied.

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

18 MJ: Redirect?

19 TC[MAJ FEIN]: No, Your Honor.

20 MJ: All right.

21 Temporary or permanent excusal?

22 TC[MAJ FEIN]: Temporary excusal, Your Honor.

1 MJ: All right.

2 Mr. Lewis, you are temporarily excused. Once again, please
3 don't discuss your testimony or knowledge of the case with anyone
4 other than counsel or the accused while the trial is still going on.

5 Now my understanding is we are going to have another
6 session and recall this witness.

7 Is that correct?

8 TC[MAJ FEIN]: No, Ma'am.

9 MJ: At 3:30?

10 TC[MAJ FEIN]: Well, actually, ma'am, yes. Well if we can go
11 into a recess and the United States will talk to the defense to have
12 a proposal upon what we should do for the open record.

13 MJ: All right.

14 Well, at this point, you are excused.

15 TC[MAJ FEIN]: Sorry, Your Honor.

16 WIT: Thank you, ma'am. So am I excused-excused or----

17 TC[MAJ FEIN]: Sir, if you could just wait in the back office---

18 -

19 WIT: I'm--I'm----

20 TC[MAJ FEIN]: We will let you know what that really means.

21 [The witness was temporarily excused, duly warned, and exited the
22 courtroom.]

1 MJ: All right.

2 Anything we need to address before we recess the court?

3 TC[MAJ FEIN]: No, Ma'am. Other than if we could ask the
4 Bailiff or Mr. Prather to notify the public that maybe we will
5 restart at 1600 with the open session to give us adequate time to
6 talk about the next steps forward.

7 MJ: All right.

8 Defense, any concerns with that?

9 CDC: No objections, Your Honor.

10 MJ: Okay.

11 We will be at recess then until 1600.

12 **[The court-martial recessed at 1525, 2 July 2013.]**

13 **[END OF PAGE]**