

**In the Matter Of:**

**HOLCOMBE vs UNITED STATES of AMERICA**

5:18-CV-00555-XR

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**MAJOR NATHAN MCLEOD-HUGHES**

*January 09, 2020*

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IN THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

1  
2  
3 JOE HOLCOMBE, et al. ) NO. 5:18-CV-00555-XR  
4 Plaintiffs, )  
5 vs. ) Consolidated with:  
6 ) 5:18-cv-00712-XR (Vidal)  
7 UNITED STATES OF ) 5:18-cv-00881-XR (Uhl)  
8 AMERICA, ) 5:18-cv-00944-XR (Ramsey)  
9 Defendants. ) 5:18-cv-00949-XR (McNulty)  
10 ) 5:18-cv-00951-XR (Wall)  
11 ) 5:18-cv-01151-XR (Amador)  
12 ) 5:19-cv-00184-XR (Brown)  
13 ) 5:19-cv-00289-XR (Ward)  
14 ) 5:19-cv-00506-XR (Workman)  
15 ) 5:19-cv-00678-XR (Colbath)  
16 ) 5:19-cv-00691-XR (Braden)  
17 ) 5:19-cv-00706-XR (Lookingbill)  
18 ) 5:19-cv-00714-XR (Solis)  
19 ) 5:19-cv-00715-XR (McKenzie)  
20 ) 5:19-cv-00805-XR (Curnow)  
21 ) 5:19-cv-00806-XR (Macias)  
22  
23  
24  
25

VIDEOTAPED DEPOSITION OF MAJOR NATHAN MCLEOD-HUGHES

Taken on behalf of Plaintiffs

January 9, 2020

9:16 a.m.

Reported by Robin L. Stranimeier, R.P.R., C.S.R.

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I N D E X

WITNESS: MAJOR NATHAN MCLEOD-HUGHES

EXAMINATION

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Dated October 21, 2011

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Kelley

Bates Stamp: USA13387

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Bates Stamp: USA 12947

(All exhibits attached hereto.)

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IT IS STIPULATED AND AGREED by and between counsel that the videotaped deposition of MAJOR NATHAN MCLEOD-HUGHES, may be taken by and on behalf of the plaintiffs, pursuant to statute governing such depositions on January 9, 2020, at Scott Air Force Base, 375 AMW/JA, 101 Heritage Drive, Suite 210, Scott Air Force Base, Illinois 62225, before Robin L. Stranimeier, Registered Professional Reporter and Certified Shorthand Reporter, within and for the State of Illinois; and that this deposition may be taken with the same force and effect as if all statutory requirements had been complied with; thereafter transcribed into typewriting, with signature of the witness expressly reserved.

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MAJOR NATHAN MCLEOD-HUGHES,  
having been produced, sworn and examined on the part of  
plaintiffs, testified and deposed as follows:

EXAMINATION

QUESTIONS BY MR. ALSAFFAR:

Q. Good morning. 9:17  
A. Morning. 9:17  
Q. Would you please state your name for the record. 9:17  
A. My name is Nathan McLeod-Hughes. 9:17  
Q. Okay. And are you currently in the military, sir? 9:17  
A. No, I am not. 9:17  
Q. Okay. When did you leave the military? 9:17  
A. I retired in the end of November 2014. 9:17  
Q. Okay. And what rank were you at your time of  
retirement? 9:17  
A. I was a major. 9:17  
Q. Would it be okay if I called you Major Hughes? You  
feel like you've earned it. 9:17  
A. If that's convenient, sure. 9:17  
Q. Okay. How do you -- do you -- I know you're out of  
the military and I've had the pleasure of representing a lot of  
military families over my career and when they're out of the  
military they always take a step back when someone refers to  
them by their prior service rank. So I just -- that's why I 9:18

1 asked. I want to make sure it's okay with you or how you 9:18  
2 prefer it. 9:18

3 A. That's fine with me. 9:18

4 Q. Okay. How long were you in the military, sir? 9:18

5 A. It was 15 years and about 5 months. 9:18

6 Q. Okay. And what do you do currently? 9:18

7 A. I am a government civilian. I work in the 375th 9:18  
8 Logistics Readiness Squadron and I am the flight chief for the 9:18  
9 Deployment and Distribution Flight. 9:18

10 Q. I believe you said the 356 LRS? 9:18

11 A. I apologize, 375th. 9:18

12 Q. 375. Okay. I may have heard you wrong. And what is 9:18  
13 your position with the 375th? 9:18

14 A. I am the flight chief. 9:18

15 Q. And you said you were a civilian employee of the 9:18  
16 government at this -- 9:18

17 A. Correct. 9:18

18 Q. -- point? 9:18

19 Okay. And as flight chief what is your -- well, what 9:19  
20 is your -- what's your government rating status? Like G -- 9:19

21 A. GS-12. 9:19

22 Q. GS-12. And did you join the 375th right after you 9:19  
23 retired from the Air Force -- 9:19

24 A. No, I did not. 9:19

25 Q. -- in 2014? 9:19

1           Okay. What did you do after you retired? 9:19

2           A. I worked as a managerial shift supervisor for a 9:19  
3 pharmaceutical firm in St. Louis. I then became a government 9:19  
4 contractor shortly after that. 9:19

5           Q. What were your responsibilities as flight chief 9:19  
6 currently? 9:19

7           A. I am the second in command for the flights. I work a 9:19  
8 lot of the operational issues. So if we have the day-to-day 9:19  
9 activities as they occur, I usually am involved in making sure 9:19  
10 that they happen and coordinating with the section supervisors. 9:19

11          Q. And what does the 375th LRS do? What are they 9:19  
12 responsible for? 9:19

13          A. They're overall responsible for all the logistics and 9:20  
14 supply chain management as well as the distribution processes 9:20  
15 for the base. 9:20

16          Q. And what does that mean, logistics supply side and 9:20  
17 mechanics of the base? 9:20

18          A. We provide overall responsibility for oversight of 9:20  
19 the distribution processes on and off the installation. We do 9:20  
20 supply chain management where we manage assets for the military 9:20  
21 for the various partners that we have on base. They also are 9:20  
22 in charge of the POL or the refueling capabilities that we 9:20  
23 provide for either vehicles or for aircraft. And we also 9:20  
24 maintain a vehicle fleet on base and we provide management 9:20  
25 oversight as well as vehicle maintenance for those. 9:20

1 Q. Okay. Have you ever had your deposition taken 9:20  
2 before? 9:20  
3 A. No. 9:20  
4 Q. Have you ever provided testimony in any form whether 9:20  
5 civil or criminal in any kind of courtroom or -- 9:20  
6 A. Yes. 9:20  
7 Q. -- proceeding? 9:21  
8 Okay. Can you tell me about that? 9:21  
9 A. I went through a motion for adoption for my 9:21  
10 stepchildren. I've also been a court member for a trial that 9:21  
11 actually went through and my first jury panel I was dismissed. 9:21  
12 Q. You were called in to serve on a jury? 9:21  
13 A. Yes. 9:21  
14 Q. Okay. Anything else? 9:21  
15 A. No. 9:21  
16 Q. All right. The reason I ask that is I wanted to make 9:21  
17 sure that -- that you sort of understood how this process in a 9:21  
18 deposition works, and so that you're as comfortable as you can 9:21  
19 be with it. And I'm sure you went over some of these things 9:21  
20 with some of the attorneys for the government as well. And I'm 9:21  
21 not asking you -- by the way, I don't want -- I'm not asking 9:21  
22 for any information in that regard, but what I'd like to do is 9:22  
23 just kind of give you a little bit of the ground rules for how 9:22  
24 a deposition is supposed to work. Which primarily is to try to 9:22  
25 make sure we get your testimony accurate. And so that's what 9:22

1 kind of these rules are for. 9:22

2 First of all, you and I have never met before, right? 9:22

3 A. Correct. 9:22

4 Q. And do you understand that I represent a number of 9:22

5 the families that were killed and severely injured in the 9:22

6 Sutherland Springs mass shooting at the Sutherland Springs 9:22

7 First Baptist Church in Texas? 9:22

8 A. Yes. 9:22

9 Q. And you understand that was in November 5, 2017? 9:22

10 A. Approximate. 9:22

11 Q. Around that time? 9:22

12 A. Yes. 9:22

13 Q. Okay. One of the first things you did when we 9:22

14 started is you took an oath. Do you remember that? 9:22

15 A. Yes. 9:22

16 Q. And I want to make sure that you understand -- we're 9:22

17 actually in a courtroom right now and I want to make sure that 9:22

18 you understand that the oath, as quick as it was, that you just 9:22

19 took is the -- has the same legal force and effect as if you 9:23

20 had taken in this courtroom before a judge and a jury. Do you 9:23

21 understand that? 9:23

22 A. Yes, sir. 9:23

23 Q. Okay. So you understand that the oath that you took 9:23

24 has the same penalty for perjury for not telling the truth? 9:23

25 A. Yes. 9:23

1 Q. Okay. It's something, you're doing a pretty good job 9:23  
2 of, even though we have a video here and we have a court 9:23  
3 reporter taking down your testimony we want to make sure that 9:23  
4 your testimony is taken accurately. So to the best of your 9:23  
5 ability try to let me finish my question before you answer even 9:23  
6 if you think you know what I'm asking you. Does that make 9:23  
7 sense? 9:23

8 A. Yes. 9:23

9 Q. Give you a good example, in normal conversation if 9:23  
10 you and I were just sitting around talking, you know, most of 9:23  
11 the time we interrupt when someone's asking is oh, I know what 9:23  
12 you're going to ask me and would go ahead and answer that and 9:23  
13 that would be fine. But in a deposition it's a little 9:24  
14 difficult because it's not clear what you're -- the question 9:24  
15 you're actually answering if we're both talking at the same 9:24  
16 time. Does that make sense to you? 9:24

17 A. Yes, it does. 9:24

18 Q. All right. So from time to time I may -- I may 9:24  
19 interrupt you and say, hey, let me finish my question or I may 9:24  
20 just put my hand out like that and say I'm still going. 9:24  
21 Normally if I did that, that would be kind of rude, but I'm not 9:24  
22 doing that to be -- I'm actually doing that because it's 9:24  
23 important to me that your testimony is taken down accurately 9:24  
24 and you actually know what my question is going to be. Is that 9:24  
25 okay? 9:24

1 A. Fine with me. 9:24

2 Q. And, you know, I'm from Texas so I think I talk fast 9:24  
3 for a Texan, but that's still slow for most people. And so 9:24  
4 part of that is going to require a little discipline on your 9:24  
5 part in just letting me finish my question. All right? 9:24

6 A. Okay. 9:24

7 Q. The other thing too is, you know, generally we take a 9:24  
8 break every hour or so just to stretch our legs, go to the 9:24  
9 restroom. Sometimes we get a little over that just because I'm 9:25  
10 not paying -- I'm just -- we're just going and getting through 9:25  
11 the information, but if you need to take a break just let me 9:25  
12 know that's fine. We'll take a break at a natural stopping 9:25  
13 point. If we're in the middle of a question get that question 9:25  
14 out, but just let me know we can -- we can do that. Okay? 9:25

15 A. Okay. 9:25

16 Q. All right. The only other thing is, and you're doing 9:25  
17 a great job of this, is try not to say uh-huh or uh-uh when you 9:25  
18 mean yes or no or don't shake your head. The court reporter 9:25  
19 will actually take down witness nods head and even though we 9:25  
20 have a video and we can probably interpret it. Again going 9:25  
21 back to that original point about us wanting to make sure we 9:25  
22 get accurate testimony. If you -- if you do that even though I 9:25  
23 kind of know probably what your answer was I may say is that a 9:25  
24 yes or is that a no. Can you say yes or no when you nod your 9:25  
25 head. Again, that might -- that's odd in a normal conversation 9:25

1 and it might seem rude, but that's not what I'm trying -- 9:25

2 trying to do. Does that make sense? 9:25

3 A. I understand. 9:25

4 Q. The only other thing too is if I ask you to speak up 9:25

5 a little bit that's also, because I want to make sure everyone 9:26

6 can hear your answer and make sure that the record is clear, 9:26

7 what your answer is. Again, that might be rude but you can 9:26

8 kind of see that all these rules really go back to one thing 9:26

9 which is probably important to you and that is we want to get 9:26

10 your testimony down accurately. All right? 9:26

11 A. Makes sense. 9:26

12 Q. All right. So let's talk a little bit about your 9:26

13 deposition prep if you don't mind. Can you kind of tell me 9:26

14 what you did to prepare for the deposition today? 9:26

15 A. I met with Ms. Jocelyn and we discussed some of the 9:26

16 basic processes on what would occur today. 9:26

17 Q. That was a good example, I couldn't hear that last 9:26

18 part. 9:26

19 A. We talked about some of the basic processes and what 9:26

20 I can expect during this session. 9:26

21 Q. Okay. You said you met with Jocelyn. That's the 9:26

22 U.S. Attorney? 9:26

23 A. That is correct. 9:26

24 Q. From Washington, DC. 9:26

25 A. Yes, sir. 9:26

1 Q. Where did you all meet? 9:26

2 A. In this room. 9:26

3 Q. Okay. And about how long did you meet? 9:27

4 A. A little less than two hours. 9:27

5 Q. Okay. And did you review any documents in 9:27  
6 preparation for your deposition? 9:27

7 A. Yes, I did. 9:27

8 Q. Can you tell me about that? 9:27

9 A. It was the letter of reprimand that I issued and 9:27  
10 signed and the document that was used for pretrial confinement. 9:27

11 Q. And your attorney outlined three documents. One was 9:27  
12 also the confinement order. Was that a document that you 9:27  
13 reviewed as well? 9:27

14 A. I was under the impression that was a combined 9:27  
15 document. 9:27

16 Q. It might have been. It might have been. It might 9:27  
17 have been. 9:27

18 Okay. So when you said pretrial confinement document 9:27  
19 that probably would have included the confinement order, right? 9:27

20 A. Yes. 9:27

21 Q. Okay. Anything else you reviewed in preparation for 9:27  
22 the deposition? 9:27

23 A. Not that I recall, no. 9:27

24 Q. Okay. Did you communicate, talk with anyone other 9:27  
25 than the United States Attorneys in preparation for your 9:27

1 deposition? 9:27

2 A. I have had conversations with people about going 9:28

3 through this. 9:28

4 Q. And just so I'm clear, when you say "going through 9:28

5 this" you're talking about the deposition? 9:28

6 A. Yes, I did. 9:28

7 Q. Okay. And who did you talk with about the 9:28

8 deposition? 9:28

9 A. I have talked with my wife to let her know that I 9:28

10 would be unavailable. 9:28

11 Q. Okay. 9:28

12 A. I did talk about what it was, what the deposition was 9:28

13 for, but it was not beyond open source internet available 9:28

14 information. I did talk to my squadron commander, Lieutenant 9:28

15 Jennifer -- Lieutenant Colonel Jennifer Kennedy to let her know 9:28

16 why I was going to be unavailable. I have talked with my 9:28

17 former squadron commander briefly by e-mail mostly in relation 9:28

18 to the shootings, less about the deposition. 9:28

19 Q. Okay. And I was going to ask you about that next, 9:29

20 but let me -- let me shut down this. We'll talk about 9:29

21 conversations, E-mails, communications you had when the 9:29

22 shooting occurred. Is that what you were referring to? 9:29

23 A. Yes. 9:29

24 Q. Okay. So let's talk about just, you said you talked 9:29

25 with your wife. Is there anybody else that you spoke with in 9:29

1 actually preparing for the deposition? 9:29

2 A. No. 9:29

3 Q. And just so -- no, no. That's fine. You're fine. 9:29

4 That was the question. And just to make sure that you 9:29

5 understand what I'm talking about too, did you call any former 9:29

6 colleagues who worked with you at the Air Force base in 9:29

7 Holloman or any employees who worked underneath you at that 9:29

8 time to refresh your memory about events in preparation for the 9:29

9 deposition? 9:29

10 A. No. 9:29

11 Q. Okay. I want to hand you, just because I marked it, 9:29

12 this is Deposition Exhibit No. 1. That's what the Number 1 up 9:29

13 here means. 9:29

14 (Document marked Exhibit No. 1.) 9:29

15 Q. This is what's called a Notice of Deposition 9:29

16 that we sent to your attorneys. Your attorneys being the U.S. 9:29

17 Attorneys Office. It's just like a subpoena that says, hey, we 9:29

18 need to take your deposition and if you can bring any exhibits 9:30

19 with you that are attached as Exhibit A. Have you seen this 9:30

20 document before? 9:30

21 A. No, I have not. 9:30

22 Q. Okay. And it's pretty straightforward. If you keep 9:30

23 flipping there you'll see Exhibit A and we just ask you to 9:30

24 bring if you have one a CV and/or -- and any documents you 9:30

25 reviewed in preparation for deposition. Your attorney provided 9:30

1 us with a list of the documents you reviewed, but do you have a 9:30  
2 CV? 9:30

3 A. Not with me. 9:30

4 Q. Okay. Do you maintain a current CV? 9:30

5 A. Yes, I do. 9:30

6 Q. Okay. And where do you maintain it? 9:30

7 A. At work on my computer. 9:30

8 Q. Okay. So easy to get if you needed to? 9:30

9 Easy to get if you needed -- 9:30

10 A. Yes. 9:30

11 Q. -- to? 9:30

12 Okay. You can just leave that there. Now, going 9:30

13 back to what you brought up just a few minutes ago, you 9:30

14 mentioned that you had communications with folks about the 9:30

15 shooting itself when it occurred back in November of 2017 9:31

16 timeframe. Did I get that correctly? 9:31

17 A. Yes, sir. 9:31

18 Q. Okay. Can you tell me about the people that you 9:31

19 spoke with and communicated with including generally what you 9:31

20 talked about when you heard about this terrible event? 9:31

21 A. I had E-mailed my former squadron commander, 9:31

22 Lieutenant Colonel Robert Bearden asking if he was aware of the 9:31

23 shootings. There really wasn't much communication beyond 9:31

24 acknowledgment yes. I believe a friend of mine had asked me 9:31

25 about the shooting due to the timing that I was at Holloman and 9:31

1 the reference to Mr. Kelley being assigned there. Do not 9:31  
2 remember the timeframe and I don't remember the person's name 9:31  
3 at the time. Beyond that I don't really recall any specifics 9:31  
4 on names of people. 9:31

5 Q. You said that you E-mailed Colonel Bearden and he 9:32  
6 responded back to you? 9:32

7 A. Yes. 9:32

8 Q. What e-mail did you send that from? Was it your -- 9:32  
9 can you tell me what e-mail you sent it from? 9:32

10 A. It would have been my work e-mail. 9:32

11 Q. And work e-mail where? 9:32

12 A. I don't remember which e-mail address I was e-mailing 9:32  
13 it from. 9:32

14 Q. So why don't you just tell me all the e-mail 9:32  
15 addresses you had at the time that you would have e-mailed 9:32  
16 Colonel Bearden about this particular event. So this would 9:32  
17 have been in late 2017 November timeframe. 9:32

18 A. It would have been an e-mail address while I was a 9:32  
19 contractor at US Transcom. 9:32

20 Q. Can you spell -- is it trans com? 9:32

21 A. U-S-T-R-A-N-S-C-O-M. Short for U.S. Transportation 9:33  
22 Command. 9:33

23 Q. Okay. Was that -- would you have been at that time 9:33  
24 with -- working with the Air Force again? 9:33

25 A. No. That particular organization is a joint 9:33

1 organization that has many services as a part of it. 9:33

2 Q. Were you working with the military even though -- I'm 9:33  
3 just trying to understand what the job was. 9:33

4 A. Yes. 9:33

5 Q. Okay. So what was the job at TRANSCOM? 9:33

6 A. I was a exercise planner for U.S. Transportation 9:33  
7 Commands and then I became a systems manager in the same 9:33  
8 command while serving as a contractor to another organization. 9:33

9 Q. Okay. Could you have sent the E-mail from another 9:33  
10 E-mail other than USTRANSCOM? Like you said, you were working 9:33  
11 for -- as a contractor of another organization. 9:34

12 A. I was only a contractor for one organization, but I 9:34  
13 did serve as two different jobs working in the same 9:34  
14 organization. 9:34

15 Q. Did you have a personal E-mail that you also used 9:34  
16 during that timeframe, so November 2017? 9:34

17 A. Yes. I would have used a personal E-mail address at 9:34  
18 that time. 9:34

19 Q. Okay. What was your personal E-mail address at that 9:34  
20 time? Just in case that is where you might have sent the 9:34  
21 E-mail to Colonel Bearden. 9:34

22 A. It would have been a Google mail address. 9:34

23 Q. What's that address? 9:34

24 A. Nathan.mcleodhughes, without the hyphen, @gmail.com. 9:34

25 Q. Okay. Any other E-mail addresses you might have been 9:34

1 using at that time when you communicated with Colonel Bearden? 9:34

2 A. None. 9:34

3 Q. All right. Did you send -- can you -- do you 9:34

4 remember -- and it's okay, I'm asking for your best memory, 9:34

5 sir. I want to make sure I'm clear on that. Do you remember 9:34

6 which E-mail address you would have sent to Colonel Bearden? 9:34

7 A. It would have been from my military address. 9:35

8 Q. To -- I'm sorry I wasn't clear. Do you remember 9:35

9 Colonel Bearden's address, was it to his military address, 9:35

10 E-mail address? 9:35

11 A. I do not remember. 9:35

12 Q. Okay. All right. Do you know if Colonel Bearden was 9:35

13 still in the military at that time? 9:35

14 A. Yes, he was. 9:35

15 Q. He was. Okay. 9:35

16 And would you have had any occasion to E-mail him to 9:35

17 a private E-mail? 9:35

18 A. No. 9:35

19 Q. Okay. So best memory, probably you would have sent 9:35

20 it to Colonel Bearden's whatever his Air Force E-mail was at 9:35

21 the time in November of 2017? 9:35

22 A. I don't know if it was an Air Force E-mail address, 9:35

23 but it would have been a military E-mail address. 9:35

24 Q. Okay. That's actually what I'm asking, whether it's 9:35

25 Air Force, it's some kind of government military E-mail address 9:35

1 you sent to Colonel Bearden in 2017 about the shooting, right? 9:35

2 A. Most likely. Not all E-mail addresses are the same 9:35  
3 in the military. There is a distinction between them. So 9:36  
4 that's why I don't know if it was an Air Force E-mail address 9:36  
5 or if it was another DoD related server system that was 9:36  
6 providing the E-mail address to. 9:36

7 Q. That's fine. And I think you said he had a short 9:36  
8 response to you? 9:36

9 A. Yes. 9:36

10 Q. Okay. And did you have any more E-mail 9:36  
11 correspondence with Colonel Bearden about the mass shooting? 9:36

12 A. No, I did not. 9:36

13 Q. Did you -- let's move on to other forms of 9:36  
14 communication with Colonel Bearden. Did you guys talk about 9:36  
15 what happened? 9:36

16 A. No, I did not. 9:36

17 Q. Any other text messages? Instant messages? Face 9:36  
18 Book messages? Messenger? Anything like that with Colonel 9:36  
19 Bearden regarding the November 2017 -- 9:36

20 A. No. 9:36

21 Q. -- shooting? 9:36

22 Okay. Okay. Let's move on to other people you might 9:36  
23 have contacted. Is there anyone else that you contacted 9:36  
24 shortly after or immediately following the November 2017 9:37  
25 shooting? 9:37

1 A. I did not contact anybody -- 9:37

2 Q. Okay. 9:37

3 A. -- beyond Colonel Bearden. 9:37

4 Q. So Colonel -- 9:37

5 A. I apologize. I did not contact anybody beyond  
6 Colonel Bearden. 9:37

7 Q. So fair -- just to close out this, Colonel Bearden 9:37  
8 and the E-mail communication you had with Colonel Bearden is 9:37  
9 the only communication you had with anybody in let's say in the 9:37  
10 military or in the government relating to the Sutherland 9:37  
11 Springs shooting shortly after you found out it happened? 9:37

12 A. There was the one instance of a friend of mine asking 9:37  
13 me the question, but I don't remember the specifics. 9:37

14 Q. And was that friend in the military at the time or in 9:37  
15 the government? 9:37

16 A. Yes, he was in the military. 9:37

17 Q. All right. And was there anybody other than Colonel 9:37  
18 Bearden, anybody else at Holloman Air Force Base who either 9:37  
19 contacted you or you contacted following once you became aware 9:37  
20 of the mass shooting by Devin Kelley? 9:37

21 A. Beyond the one friend, no. 9:38

22 Q. Okay. All right. Let me ask you a little bit about 9:38  
23 -- so have we covered everyone you talked with in preparing for 9:38  
24 the deposition, by the way, I want to make sure that we covered 9:38  
25 everyone that you met with or talked with in preparation for 9:38

1 this deposition. 9:38

2 A. Yes. 9:38

3 Q. And we've identified every document that you reviewed 9:38  
4 in preparation of this deposition? 9:38

5 A. Yes. 9:38

6 Q. Okay. And have we talked about everyone you 9:38  
7 communicated with about the shooting generally in the timeframe 9:38  
8 shortly after it happened? 9:38

9 A. Yes. 9:38

10 Q. Now, let's move on and ask you a little bit about 9:38  
11 your involvement with Devin Kelley's investigation 9:38  
12 specifically. Before I do that I want to talk a little bit 9:38  
13 about sort of your background in the military. We don't have 9:38  
14 your CV so I'm going to try to go through this quickly without 9:38  
15 making it too onerous. You know, we -- we talked a little bit 9:39  
16 about what you did after you separated from the military. By 9:39  
17 the way, in 2014 was that a voluntary separation? I don't 9:39  
18 think I asked you that. Was that voluntary? 9:39

19 A. No. 9:39

20 Q. Tell me about that. 9:39

21 A. We were going through business cuts and I was given 9:39  
22 the opportunity to either separate or retire and I chose the 9:39  
23 retirement option. 9:39

24 Q. You said you were given the option of separate -- I 9:39  
25 mean retiring or what? 9:39

1 A. Or retiring. Separation or retiring. 9:39

2 Q. Okay. And you chose? 9:39

3 A. Retirement. 9:39

4 Q. Okay. What's the difference between retiring and  
5 separation? 9:39

6 A. Retirement you gain certain benefits from the  
7 government, separation you do not. 9:39

8 Q. And why did chose -- why did you go -- did you say  
9 the separation? 9:39

10 A. I chose the retirement option. 9:39

11 Q. Oh. You chose retirement. Okay. Why were you given  
12 that option at that time? 9:39

13 A. The promotion cycle had occurred several times prior  
14 on a yearly basis. I was not -- I did not meet the promotion  
15 criteria for lieutenant colonel. Once you are -- once you meet  
16 the board and are not selected you then have to separate. Due  
17 to the time and service I was afforded the retirement option. 9:40

18 Q. Okay. What was your -- am I correct in understanding  
19 that rank at the of time of retirement was major? 9:40

20 A. Yes. 9:40

21 Q. And the next one up would have been lieutenant  
22 colonel and colonel above that? 9:40

23 A. Yes. 9:40

24 Q. Okay. And why is it that you were not able to, if  
25 you know, to hit the lieutenant colonel plateau -- or 9:40

1 lieutenant colonel level? 9:40

2 A. I was not provided the details. 9:40

3 Q. Do you have -- what's your opinion on why that 9:40

4 happened? 9:40

5 A. I just did not have the right backgrounds or 9:40

6 experiences in order to be selected. 9:40

7 Q. What background and experiences do you think you 9:41

8 needed to get to that next level? 9:41

9 A. I'm not entirelyly sure. 9:41

10 Q. Okay. You weren't told why you were not able to meet 9:41

11 the next level or how, you were not told that? 9:41

12 A. No, I was not. 9:41

13 Q. Were you ever told or provided any kind of training 9:41

14 or supervision to tell you how you could get to that level if 9:41

15 you wanted to? 9:41

16 A. No. 9:41

17 Q. Okay. The -- at the time that you were at -- let me 9:41

18 get this on the record too. Tell me what your -- tell me about 9:41

19 your time at Holloman Air Force Base, when you started, when 9:41

20 you ended, what rank you were, etcetera. 9:41

21 A. I arrived at Holloman about the summertime June/July 9:41

22 of 2011. I left Holloman approximately November of 2014. My 9:41

23 job was the director of operations for the 49th Logistics 9:41

24 Readiness Squadron. I served in that job the entire time 9:41

25 period. I was deployed for six months off site to Afghanistan 9:42

1 in a similar capacity at the -- at a similar organization 9:42  
2 there. 9:42

3 Q. When were you deployed in Afghanistan, sir? 9:42

4 A. February till approximately September of 2013. 9:42

5 Q. Okay. And what was your position at Holloman Air 9:42  
6 Force Base? Your specific position and role from 2011 through 9:42  
7 2000 -- the end of 2012 when the Devin Kelley investigation was 9:42  
8 happening -- 9:42

9 A. I was -- 9:42

10 Q. -- and his -- and his -- his eventual conviction? Go 9:43  
11 ahead. 9:43

12 A. I was the director of operations for the Logistics 9:43  
13 Readiness Squadron there. 9:43

14 Q. And you were a major? 9:43

15 A. Yes, I was. 9:43

16 Q. All right. So when you say you were the director of 9:43  
17 operations for the 49th Logistic Readiness Squadron what was 9:43  
18 your job? What were your responsibilities? 9:43

19 A. The director of operations is the second in command 9:43  
20 for the squadron when it come -- my day-to-day duties involved 9:43  
21 operational issues ensuring that our support to our customers 9:43  
22 is provided. 9:43

23 Q. What kind of -- you said you were the second in 9:43  
24 command for the squadron? 9:43

25 A. Yes, sir. 9:43

1 Q. And is that the entire 49th Security Forces Squadron? 9:43

2 A. 49th Logistics Readiness Squadron. 9:43

3 Q. Okay. And is this -- I'm sorry. Is the Security 9:43

4 Forces Squadron within the Logistic Readiness Squadron? 9:43

5 A. No. 9:43

6 Q. Okay. How is -- what is the relationship between the 9:43

7 -- I'm going to say LRS for Logistic Readiness Squadron. Is 9:43

8 that okay? 9:43

9 A. Yes. 9:43

10 Q. Am I saying that right? 9:43

11 What is the relationship between the 49th LRS and the 9:44

12 49th Security Forces? 9:44

13 A. They are separate organizations with their own 9:44

14 leadership. 9:44

15 Q. Okay. 9:44

16 A. They are in a larger group called the Mission Support 9:44

17 Group that has a single colonel in charge of that organization. 9:44

18 Q. You said the Security Forces is in a larger group 9:44

19 than Mission Support Group? 9:44

20 A. Yes, sir. 9:44

21 Q. With a -- I'm sorry, did you say colonel -- 9:44

22 A. Yes. 9:44

23 Q. -- in charge of the Mission Support Group? 9:44

24 A. Correct. 9:44

25 Q. And who was that at the time of the Devin Kelley 9:44

1 investigation? 9:44

2 A. I don't remember. 9:44

3 Q. I know you E-mailed you mentioned Colonel Bearden. 9:44

4 Was he at some point in time while you were at Holloman Air 9:44

5 Force Base, was he one of those colonels at the Security Forces 9:44

6 Mission Support Group? 9:44

7 A. No. 9:44

8 Q. No. Any other colonels you can think of that were -- 9:44

9 may have been in charge of the Mission Support Group, 49th 9:45

10 Security Forces? 9:45

11 A. I cannot recall their names. 9:45

12 Q. Okay. Now, you said you were in second command for 9:45

13 the squadron? 9:45

14 A. Yes. 9:45

15 Q. Now, what is the squadron? 9:45

16 A. The squadron is the Logistic Readiness Squadron, it 9:45

17 maintains and does the same general capabilities that the 9:45

18 Logistic Readiness Squadron here does. Just at a different 9:45

19 location. 9:45

20 Q. Okay. Now, Devin Kelley was in the Logistics 9:45

21 Readiness Squadron, correct? 9:45

22 A. Correct. 9:45

23 Q. Okay. So you were one of Devin Kelley's commanders 9:45

24 when he was at the Holloman Air Force Base LRS; is that right? 9:45

25 A. No. I was not the commander. Occasionally I was the 9:45

1 acting commander. 9:45

2 Q. Okay. When were you occasionally the acting 9:45

3 commander? 9:45

4 A. I don't recall the dates. 9:45

5 Q. Sometime during -- were you at various times acting 9:46

6 commander of the 49th LRS while Devin Kelley was at the LRS? 9:46

7 A. Correct. 9:46

8 Q. Okay. So while Devin Kelley was there at times you 9:46

9 were the acting commander of his squadron? 9:46

10 A. Yes. 9:46

11 Q. Okay. By the way, at all times that you were at 9:46

12 Holloman Air Force Base, including the times that Devin Kelley 9:46

13 was there you were -- you were an employee for the federal 9:46

14 government working within the course and scope of your federal 9:46

15 employment; is that right? 9:46

16 A. Yes. 9:46

17 Q. Okay. Going back to what we were talking about in 9:46

18 terms of the command structure. Who was your commander? Who 9:46

19 was your -- let me put -- let me scratch that. 9:46

20 Who was your supervisor? 9:46

21 A. At which particular time? 9:46

22 Q. 2011 to 2013 at Holloman Air Force Base. 9:46

23 A. 2011 to 2012 was Lieutenant Colonel Frank Marconi. 9:47

24 From 2012 to 2014 would have been Lieutenant Colonel Robert 9:47

25 Bearden. 9:47

1 Q. Can you speak up just a little bit. From 2012 9:47  
2 forward -- 9:47

3 A. 2012 to 2014 would have been Lieutenant Colonel 9:47  
4 Robert Bearden. 9:47

5 Q. Now, I've seen -- I've seen all these folks you've 9:47  
6 mentioned: Lieutenant Colonel Marconi, Lieutenant Colonel 9:47  
7 Bearden, I've seen yourself, and other captain's memorandums, 9:47  
8 etcetera relating to Devin Kelley relating to his performance 9:47  
9 relating to reprimands in the 49th security file. Can you tell 9:47  
10 me how -- how would it -- or how was it that you became 9:47  
11 involved in issuing reprimands, issuing warnings and getting 9:47  
12 involved with his, for example, his confinement while you -- 9:48  
13 while Devin Kelley was at the 49th Squadron. 9:48

14 Q. To the best of my recollection the time that I was 9:48  
15 brought in was for the letter of reprimand that is on file that 9:48  
16 I've seen and you have shown. That was the first instance that 9:48  
17 I would have been brought in that I can recall in his 9:48  
18 particular case and his performance. 9:48

19 Q. Okay. And any other times you can remember? 9:48

20 A. Not before that time period. 9:48

21 Q. Okay. That would have been in the 2012 time period; 9:48  
22 is that right? 9:48

23 A. Correct. 9:48

24 Q. And was that after the 49th Security Forces had 9:48  
25 interviewed both him and his wife about the -- one of the 9:48

1 allegations of abuse? 9:48

2 A. I don't know the time frame. 9:48

3 Q. Okay. Was it after the 49th had interviewed him and 9:48

4 his ex-wife Tessa Kelley for abuse allegations? 9:49

5 A. I'm not entirely sure of the time frame. 9:49

6 Q. We'll -- we'll look at. We'll -- I'll put those in 9:49

7 front of you because I just want to know your general knowledge 9:49

8 and memory of it. 9:49

9 A. In my position I am not normally involved in 9:49

10 administrative side of the house. 9:49

11 Q. Okay. What's -- what do you mean by "administrative 9:49

12 side?" 9:49

13 A. The paperwork. If LOC or letters of counseling or 9:49

14 letters of reprimand that reprimands are provided. I am not 9:49

15 normally in that process. 9:49

16 Q. Okay. So were you put in -- involved in the process 9:49

17 in Devin Kelley's case? 9:49

18 A. I was serving as the acting commander at the time. 9:49

19 Q. We see your name in both letter of reprimand as well 9:49

20 as in the confinement order, the pretrial confinement order is 9:49

21 because at that time -- at that time when Devin Kelley was 9:50

22 being investigated by the 49th Security Forces and then 9:50

23 ultimately put into pretrial confinement you were the acting 9:50

24 commander of the LRS, correct? 9:50

25 A. Correct. 9:50

1 Q. Did I say that correctly, acting commander of LRS? 9:50

2 A. Yes. 9:50

3 Q. Okay. Your responsibility didn't go beyond acting 9:50  
4 commander of LRS; is that right? 9:50

5 A. Correct. 9:50

6 Q. Okay. Who was the commander of the 49th Security 9:50  
7 Forces Wing at the time? 9:50

8 A. I don't know the name of the security forces 9:50  
9 commander. 9:50

10 Q. Okay. Never knew the name of -- while you were there 9:50  
11 never knew -- at Holloman Air Force Base you never knew who the 9:50  
12 security force commander was? 9:50

13 A. While I was there, yes, I would have known his name. 9:50  
14 I cannot recall it now. 9:50

15 Q. What rank would that person have been? 9:50

16 A. I don't know for definite. 9:51

17 Q. Okay. And how -- what kind of communication or 9:51  
18 involvement or connection did you have when you were acting 9:51  
19 commander of the 49th LRS that Devin Kelley was a part of? 9:51  
20 What kind of communication did you have with the 49th Security 9:51  
21 Forces Wing when they were investigating folks under your 9:51  
22 command like Devin Kelley? 9:51

23 A. They were a security forces squadron and I had zero 9:51  
24 contact. 9:51

25 Q. So when one of your airmen or airwoman, women were 9:51

1 under investigation for potential criminal conduct by the 49th 9:51  
2 Security Wing -- Security Forces Wing they would have no 9:51  
3 communication with the supervisors or commanders that were over 9:51  
4 those airmen or airwomen to let you know that one of them was 9:51  
5 under investigation? 9:51

6 A. I do not know if the squadron would have contacted my 9:51  
7 squadron commander directly. They would more than likely not 9:51  
8 have contacted the supervisors below the commander. 9:51

9 Q. All right. How did -- then how did you get involved? 9:52  
10 How did you know to issue a letter of reprimand regarding Devin 9:52  
11 Kelley assaulting his wife and child? 9:52

12 A. Our first sergeant for our squadron would have 9:52  
13 brought the information to me at the time to explain what was 9:52  
14 going on. 9:52

15 Q. Did you say the first sergeant in your squadron? 9:52

16 A. Correct. 9:52

17 Q. So the first sergeant of Devin Kelley's LRS at 9:52  
18 Holloman Air Force Base would let you know if they knew about 9:52  
19 any criminal investigation that was going on with Devin Kelley? 9:52

20 A. While serving as the acting commander, yes. 9:52

21 Q. And I think we've established that while, at least in 9:52  
22 2012, you were serving as the acting commander that's why you 9:52  
23 were involved in his investigation in some way? 9:52

24 A. For a short period of time. 9:52

25 Q. Okay. So what -- what training, if any, did you get 9:52

1 on the Department of Defense instructions and Air Force 9:53  
2 instructions regarding fingerprint submission and fingerprint 9:53  
3 collection? 9:53

4 A. I had zero training. 9:53

5 Q. And to be clear, you had zero training on the 9:53  
6 Department of Defense instructions and Air Force Instructions 9:53  
7 related to fingerprint collection and fingerprint submission 9:53  
8 while you -- the entire time you were at Holloman Air Force 9:53  
9 Base? 9:53

10 A. Correct. 9:53

11 Q. And do you know why that is, you received no training 9:53  
12 on that? 9:53

13 A. It was not part of my duties. 9:53

14 Q. Okay. So even in the situations where you were -- 9:53  
15 you were involved in issuing confinement orders or pretrial 9:53  
16 confinement orders for folks like Devin Kelley, like you did in 9:53  
17 this case, and letters of reprimand for domestic abuse and 9:53  
18 child abuse, like you did with Devin Kelley in this case, you 9:53  
19 had no training provided to you by the Air Force relating to 9:53  
20 when and how to submit fingerprints to the FBI? 9:54

21 A. Having any training in any sort of fingerprints is 9:54  
22 not part of the training that was ever provided to me 9:54  
23 regardless of the situation. 9:54

24 Q. Okay. So when your first sergeant or somebody in 9:54  
25 your chain of command under you would report that one of your 9:54

1 airmen like Devin Kelley was either under investigation for 9:54  
2 potential crimes or had been charged with a potential crime 9:54  
3 and/or convicted of a potential crime the Air Force or the 9:54  
4 Department of Defense didn't provide you with any training on 9:54  
5 oversight or supervisory oversight of when to collect and when 9:54  
6 to submit fingerprints to the FBI? Is that my understanding? 9:54

7 A. Regardless of the situation I was not provided any 9:54  
8 training for fingerprints or the process for that. 9:54

9 Q. Okay. Did you have any communications when you were 9:54  
10 at Holloman Air Force Base? Any kind of communications with 9:54  
11 anyone at Holloman Air Force Base, 49th Security Forces Wing 9:55  
12 relating to their collection and submission of fingerprints of 9:55  
13 airmen under your command who were either charged with crimes 9:55  
14 or convicted of crimes or under investigation for crimes? 9:55

15 A. I had zero contact with the security forces squadron. 9:55

16 Q. Okay. And that's true for your entire time at 9:55  
17 Holloman Air Force Base? 9:55

18 A. Correct. 9:55

19 Q. Right? Okay. 9:55

20 All right. Well, let me ask you a little bit about 9:55

21 -- 9:55

22 A. I would like to modify -- 9:55

23 Q. Oh, yeah. Absolutely. And by the way, many time you 9:55  
24 want to do that please go ahead. 9:55

25 A. I did get a speeding ticket while I was there. So I 9:55

1 did have contact with a security forces patrolman. 9:55

2 Q. Okay. 9:55

3 A. But that is the only -- 9:55

4 Q. Okay. 9:55

5 A. -- contact that I have had with the squadron that I 9:55  
6 can recall. 9:55

7 Q. No, I understand. And that's -- that's helpful to me 9:55  
8 to understand sort of what your sort of purview and role 9:55  
9 because it's not very clear on security forces side at least of 9:55  
10 Holloman Air Force Base how everybody interacted and worked 9:56  
11 together. So my understanding is when you were acting 9:56  
12 commander at Holloman Air Force Base in the 2011-2012 timeframe 9:56  
13 you as acting commander of the 49th LRS that Devin Kelly was a 9:56  
14 part of have had no connection, involvement or working 9:56  
15 relationship with the 49th Security Forces Wing? 9:56

16 A. I did not, correct. 9:56

17 Q. You did not. Okay. 9:56

18 Now, whenever you issued a letter of reprimand or 9:56  
19 issued, like in this case a pretrial confinement order on Devin 9:56  
20 Kelley did you have any kind of -- well, how did you 9:56  
21 communicate that or work with, if at all, the 49th Security 9:56  
22 Forces Wing when that occurred? 9:56

23 A. I did not communicate at all with the -- with the 9:56  
24 security forces squadron. I would have communicated the 9:56  
25 information to my first sergeant. 9:57

1 Q. Your first sergeant at the time was Tracy Wolfe; is 9:57  
2 that correct? When I say "at the time" -- let me start all 9:57  
3 over. 9:57

4 When I say "at the time," that's shorthand for the 9:57  
5 time that Devin Kelley was at Holloman Air Force Base 2011 to 9:57  
6 the end of 2012. Fair understanding? 9:57

7 A. Fair understanding. 9:57

8 Q. At the time that Devin Kelley was there was Tracy 9:57  
9 Wolfe the first sergeant who you're referring to? If you know. 9:57

10 A. I am not entirely sure. 9:57

11 Q. Okay. 9:57

12 A. About the timeframe. 9:57

13 Q. Okay. Do you know who Tracy Wolfe is? 9:57

14 A. Yes. 9:57

15 Q. Was Tracy Wolfe a first sergeant at Holloman Air 9:57  
16 Force Base while you were there? 9:57

17 A. Yes, he was. 9:57

18 Q. Is Tracy a man or a woman? 9:57

19 A. Man. 9:57

20 Q. Okay. Was Mr. Wolfe a first sergeant at Holloman Air 9:57  
21 Force Base while Devin Kelley was at Holloman Air Force Base? 9:57

22 A. I am not entirely sure. 9:57

23 Q. Okay. Do you remember whether when you were the 9:58  
24 acting commander at Holloman Air Force Base if Tracy Wolfe was 9:58  
25 a first sergeant there? 9:58

1 A. I do not remember. 9:58

2 Q. Mark that as 2. 9:59

3 (Documents marked Exhibit No. 2 and No. 3.) 9:59

4 A. I would like to clarify it was not a speeding ticket. 9:59

5 It was a stop sign violation. 9:59

6 Q. Okay. 9:59

7 A. Just to -- 9:59

8 Q. I had you, man. I had you. I knew it was stop and 9:59

9 you said speeding I'm like I got him. I got him. Thank you 9:59

10 for clarifying. That's okay. 9:59

11 I'm going to hand you Exhibit No. 2. We had talked 9:59

12 briefly just generally about the general DoDI Instructions and 9:59

13 Air Force Instructions about fingerprint collection and 9:59

14 submission. So I wanted to show you specifically what I was 9:59

15 talking about so you could tell me for certain whether or not 9:59

16 you recognize this. So I'll just hand you Exhibit No. 2 which 9:59

17 is DoDI Instruction 5505.11, and you can look at it real quick. 10:00

18 It's really just a couple of pages. Most of it is just 10:00

19 attachments. And tell me when you're done skimming it. 10:00

20 A. I'm done skimming. 10:00

21 Q. Okay. Have you ever seen DoDI Instruction 5505.11? 10:01

22 A. No, I have not. 10:01

23 Q. Okay. And I'm going to hand you Exhibit No. 3. And 10:01

24 let me be clear first before we look at Exhibit No. 3. Exhibit 10:01

25 No. 2 DoDI Instruction 5505.11 you never saw that while you 10:01

1 were -- anytime while you were at Holloman Air Force Base, 10:01  
2 correct? 10:01

3 A. That is correct. 10:01

4 Q. And so the Air Force or DoD never trained you 10:01  
5 specifically on this instruction your entire time in the Air 10:01  
6 Force; is that fair? 10:01

7 A. That is correct. 10:01

8 Q. Since the shooting have you ever been trained on this 10:01  
9 instruction? 10:01

10 A. No, I have not been. 10:01

11 Q. And I know you were out of the Air Force before the 10:01  
12 shooting occurred; correct? 2014 is when you left -- 10:01

13 A. Yes. 10:01

14 Q. -- the Air Force? 10:01

15 Okay. And so I'm going to hand you Exhibit No. 3 as 10:01  
16 well. Exhibit No. 3 is the Air Force Instruction 31-206. It 10:01  
17 also deals with fingerprint submission/collection as well. 10:01  
18 Have you ever seen that before? 10:01

19 A. No, I have not. 10:01

20 Q. So fair to say that the Department of Defense and the 10:02  
21 Air Force did not instruct you -- sorry -- did not train you at 10:02  
22 any time on Air Force Instruction 31-206 while you were in the 10:02  
23 Air Force? 10:02

24 A. That is correct. 10:02

25 Q. Okay. You can move those here. 10:02

1 Now, are you familiar with what a High Risk for 10:02  
2 Violence Response Team is? 10:02

3 A. No. 10:02

4 Q. Are you familiar with what a CRB, Central Registry 10:02  
5 Board, is? 10:02

6 A. No. 10:02

7 Q. Okay. So fair to say the Air Force never trained you 10:02  
8 on either what a High Risk for Violence Response Team or what a 10:02  
9 CRB, Central Registry Board, is while you were at the Air 10:02  
10 Force? 10:02

11 A. That is correct. 10:02

12 Q. Okay. Did you -- when you were at Holloman Air Force 10:02  
13 Base while Devin Kelley was there did your command, so the 49th 10:03  
14 LRS, have access to any kinds of files, security forces files 10:03  
15 relating to people in your command that were being 10:03  
16 investigated? 10:03

17 A. I don't know. 10:03

18 Q. What do you mean by "you don't know"? 10:03

19 A. I don't know if they would or would not have had 10:03  
20 access to any files. 10:03

21 Q. No. What I'm asking is, when you were at Holloman 10:03  
22 Air Force Base and when you were in second command at 49th LRS 10:03  
23 and when you were acting commander at 49th LRS would you -- was 10:03  
24 there any time which you would have had access to any computer 10:03  
25 files, security forces files relating to investigations, 10:03

1 criminal investigations that were being done on people under 10:03  
2 your command like Devin Kelley? 10:03

3 A. No. 10:03

4 Q. Okay. Would you have ever been sent files from the 10:03  
5 security forces or the AFOSI relating to airmen or airwomen 10:03  
6 like Devin Kelley who are being criminally investigated while 10:04  
7 you were second in command or acting command at Holloman Air 10:04  
8 Force Base? 10:04

9 A. No. 10:04

10 Q. Okay. So how -- again, going back to what we 10:04  
11 discussed earlier. First of all, do you know what AFOSI is? 10:04

12 A. Yes. 10:04

13 Q. Okay. And do you know -- were you familiar with the 10:04  
14 AFOSI office at Holloman Air Force Base? 10:04

15 A. No. 10:04

16 Q. I mean, when I say "familiar," did you know where it 10:04  
17 was? 10:04

18 A. No. I actually did not know the location of the 10:04  
19 office. 10:04

20 Q. Okay. Did you know anybody who is a special agent or 10:04  
21 superintendent or a special agent in charge at the AFOSI office 10:04  
22 at Holloman Air Force when you were there? 10:04

23 A. No, I did not. 10:04

24 Q. Did you ever have any communication with special 10:04  
25 agents who were investigating your airmen while you were at 10:04

1 Holloman Air Force Base? 10:04

2 A. Not that I can recall. 10:04

3 Q. Okay. So if -- if agents send -- sent records, OSI 10:05

4 records from the AFOSI to the 49th Logistics Readiness Squadron 10:05

5 where would you those be stored? 10:05

6 A. I don't know if the OSI organization would have sent 10:05

7 any sort of investigatory documents to the squadron. 10:05

8 Q. Okay. I'm going to -- 10:05

9 A. As I understand it open investigations are close hold 10:05

10 and I don't believe a lot of those would be released. 10:05

11 Q. Okay. If you can look on the screen behind you. Can 10:05

12 you see that? 10:05

13 A. Yes, I can. 10:05

14 Q. Okay. So just look it that real quick and then we'll 10:05

15 talk about it in just a second if you don't mind. 10:05

16 A. Okay. 10:05

17 Q. Okay. Just give me second. I'm going to look for 10:05

18 the specific file here. Okay. I'm showing you on the screen 10:06

19 what's marked as USA 14794. Do you see that number on the 10:06

20 bottom right? 10:06

21 A. Yes, I do. 10:06

22 Q. Okay. Now -- and I didn't tell you this earlier, but 10:06

23 whenever you see a document that has that number USA on it with 10:06

24 a number, big number after it that means that the United States 10:06

25 government's lawyers gave that to me and the lawyers on our 10:07

1 side after we essentially subpoenaed the records. So we asked 10:07  
2 for an official legal request to give all relevant documents to 10:07  
3 us and then if they're in the government's possession then they 10:07  
4 put that number on it and they give it to us. So that's what 10:07  
5 that means. That means that the United States government this 10:07  
6 is their document and they give it to us. Just so you 10:07  
7 understand what that means. Okay? 10:07

8 A. Okay. 10:07

9 Q. Okay. So we're looking at 14794 and the date on this 10:07  
10 is June 15, 2011. Do you see that? 10:07

11 A. Yes, I see that. 10:07

12 Q. And it says on the top it's from the Department of 10:07  
13 Air Force AFOSI, Air Force Office of Special Investigations, 10:07  
14 correct? 10:07

15 A. Correct. 10:07

16 Q. And by the way, do you know whose signature is at the 10:07  
17 top? 10:07

18 A. No, I do not. 10:07

19 Q. Initials. 10:07

20 Okay. The first line highlighted there says 10:07  
21 Memorandum 4, 49 Logistics Readiness Squadron. Do you see 10:07  
22 that? 10:07

23 A. Yes, I see that. 10:07

24 Q. Okay. And now that is your -- that's the squadron 10:08  
25 that you were in, correct? 10:08

1 A. That is correct. 10:08

2 Q. And so when we were talking about you being second in 10:08  
3 command and acting commander of 49 Logistics Readiness Squadron 10:08  
4 that's your squadron, correct? 10:08

5 A. Correct. 10:08

6 Q. All right. And this is a memo to your squadron that 10:08  
7 you were either second in command or in -- in command from the 10:08  
8 -- during the 2011-2000 timeframe, correct? 10:08

9 A. Correct. 10:08

10 Q. Okay. So it's from AFOSI Detachment 225. Do you see 10:08  
11 that? 10:08

12 A. Yes, I see that. 10:08

13 Q. And under Number 1 -- first of all, this memorandum 10:08  
14 June 15, 2011, is from James Hough, the superintendent of AFOSI 10:08  
15 Detachment 225. Do you see that? 10:08

16 A. Yes, I see that. 10:08

17 Q. And who is this being sent to? 10:08

18 A. That is being sent to the squadron. 10:08

19 Q. And it's -- who is it for? 10:09

20 A. Can you please clarify? 10:09

21 Q. Sure. It says right above the signature for the who? 10:09

22 A. For the commander. 10:09

23 Q. Okay. So that would have either been you or whoever 10:09  
24 was the official commander at the time of June 5th -- 10:09

25 A. That would have -- 10:09

1 Q. -- June 15, 2011, correct? 10:09

2 A. I apologize. 10:09

3 Yes. That would have gone to the official commander 10:09  
4 at that time. 10:09

5 Q. Okay. And if you look at the very -- by the way, who 10:09  
6 was the official commander again? I think you told me. The 10:09  
7 official commander at the time of 2011-2012? 10:09

8 A. Lieutenant Colonel Frank Marconi was the commander, 10:09  
9 but I do not remember when the change of command occurred. 10:09

10 Q. Between him and Bearden? 10:09

11 A. Correct. 10:09

12 Q. Okay. So it as either Lieutenant Colonel Marconi or 10:09  
13 Lieutenant Colonel Bearden who were the -- who was the official 10:09  
14 commander at the time of this letter, correct? 10:09

15 A. Correct. 10:09

16 Q. And then you were acting commander also during this 10:10  
17 2011-2012 timeframe at the time, correct? 10:10

18 A. At times, correct. 10:10

19 Q. And this letter, June 15, 2011, that was sent to your 10:10  
20 command under Number 1 highlighted there it says: This is to 10:10  
21 inform you there's an ongoing AFOSI investigation involving A1C 10:10  
22 Kelley from the 49 Logistics Readiness Squadron. Do you see? 10:10

23 A. Yes, I see that. 10:10

24 Q. And it says: In accordance with 71-1 Criminal 10:10  
25 Investigations and Counter Intelligence, Paragraph 7.5.3, Air 10:10

1 Force Commanders. 10:10

2 Do you see that? 10:10

3 A. Yes, I see that. 10:10

4 Q. All right. So on June 15, 2011, your squadron, the 10:10

5 49th Logistics Readiness Squadron was informed by AFOSI 10:10

6 Detachment 225 at Holloman Air Force Base that one of your 10:10

7 airmen Devin Kelley was under criminal investigation and it was 10:10

8 ongoing, correct? 10:10

9 A. I do not know if the squadron received the document 10:10

10 on the date provided. That would have been the date it was 10:11

11 signed, but I have no idea when the squadron would have 10:11

12 received it. 10:11

13 Q. Okay. So you see up there in the corner there's 10:11

14 somebody's signature with a date, it looks like August 5, '11. 10:11

15 Do you see that? 10:11

16 A. Yes, I see that. 10:11

17 Q. Okay. And regardless of when it was actually 10:11

18 received this was obviously dated and notifying your squadron 10:11

19 about the criminal investigation into Kelley in June 2011, 10:11

20 right? 10:11

21 A. Correct. 10:11

22 Q. Okay. And assuming this actually was sent and it was 10:11

23 received, and I'm going to represent to you this was found in 10:11

24 the security forces file as well or the 49th file, whatever the 10:11

25 government -- however they organized it for us. Assuming that 10:11

1 it was received where do memos like this go when you receive a 10:11  
2 memo like this when you were acting commander at 49th LRS? 10:11

3 A. I don't know. I don't typically receive these from 10:11  
4 other organizations. 10:11

5 Q. Well, obviously this one was sent from other 10:11  
6 organizations within Holloman Air Force Base about one of your 10:11  
7 airmen. So where would it have -- where would you have put it? 10:12

8 A. I don't know. I was never trained on where to put 10:12  
9 that document. 10:12

10 Q. Okay. Okay. Well -- and that's fair. I mean, if 10:12  
11 you don't know how to do something or didn't -- weren't trained 10:12  
12 on it that's important for me to know as well because I don't 10:12  
13 want you to guess. 10:12

14 If you were acting commander at the time this was 10:12  
15 sent regarding Devin Kelley and the fact that he was under 10:12  
16 criminal investigation where would you have filed it? Where 10:12  
17 would you have logged it in? Who would you have told? 10:12

18 A. I would probably have contacted my first sergeant. 10:12

19 Q. Okay. 10:12

20 A. Whomever it was at that time to let them know I had 10:12  
21 received this document. 10:12

22 Q. All right. And that person may have been -- Tracy 10:12  
23 Wolfe was one of those first sergeants who was at Holloman Air 10:12  
24 Force Base during that time period, right? 10:12

25 A. I don't know who would have received it at the time. 10:12

1 Q. Okay. Well, I'm not asking who would have received. 10:12

2 You said you would have notified your first sergeant? 10:12

3 A. I would have notified the first sergeant. 10:12

4 Q. If Tracy Wolfe was the first sergeant at that time, 10:13

5 June 15, 2011, is that the person you would have? 10:13

6 A. Correct. 10:13

7 Q. Okay. And whomever was in his position at that time 10:13

8 as first sergeant that's who you're talking about, correct? 10:13

9 A. Correct. 10:13

10 Q. And why would you have notified -- if you were acting 10:13

11 commander at the time this was sent and you received this 10:13

12 notice that Devin Kelley was under criminal investigation why 10:13

13 would you contact the first sergeant? Why is that person the 10:13

14 one you would tell? 10:13

15 A. The first sergeant usually has the position of 10:13

16 interactions with other organizations regarding the health and 10:13

17 welfare of our enlisted members. If a member was unfortunately 10:13

18 detained off base the first sergeant would typically be the 10:13

19 first person contacted. 10:13

20 Q. Okay. And was -- was -- is the first sergeant sort 10:13

21 of a more -- more direct supervisor over those like Devin 10:13

22 Kelley -- 10:13

23 A. No. 10:13

24 Q. -- in LRS? 10:13

25 Okay. So why was the first sergeant the one that 10:13

1 would be -- is that just the person who would be responsible 10:13  
2 for well being of members at the -- at the base? 10:13

3 A. Yes. 10:13

4 Q. Is that how you did it? 10:13

5 Okay. So this would be one of those classifications 10:13  
6 of, well, we have a member who -- an airman or airwoman who's 10:13  
7 being criminally investigated by your own military 10:14  
8 investigators that's a well being issue so that should go to 10:14  
9 the first sergeant, agree? 10:14

10 A. Yes. 10:14

11 Q. Okay. And when you say I notified them did you 10:14  
12 document that notification or just pick up the phone? Do you 10:14  
13 just communicate with them or do you actually -- is there a 10:14  
14 process in place to -- 10:14

15 A. I'm not aware of an official process. I would have 10:14  
16 walked next door and spoken to them verbally. 10:14

17 Q. Okay. So the process at the time was if you received 10:14  
18 notification as acting commander in June 2011 or sometime 10:14  
19 around that timeframe that Devin Kelley is being investigated 10:14  
20 criminally you would have walked over to wherever the first 10:14  
21 sergeant was and verbally communicated that you received that? 10:14

22 A. That would have been what I would have done, yes. 10:14

23 Q. Okay. And then what would you have done with the 10:14  
24 actual physical document here that we're looking at 14794? 10:14

25 A. I honestly don't know. 10:14

1 Q. Okay. I think you earlier just a second ago, I don't 10:14  
2 want to -- just a second ago you said that you were not trained 10:15  
3 by the Air Force on what to do if you received notification 10:15  
4 from a criminal investigator that one of your people was being 10:15  
5 criminally investigated. Is that -- did I understand that 10:15  
6 correctly? 10:15

7 A. I believe I had said I wasn't trained on 10:15  
8 fingerprinting, but as far as -- 10:15

9 Q. You did say that, yes. Yes. 10:15

10 A. But as far as this process, no, I had not been 10:15  
11 officially trained. 10:15

12 Q. Okay. This is what I'm talking about, this process. 10:15  
13 I thought we actually touched on it so that's fine. Let's just 10:15  
14 get that clear on the record. So in terms of training you 10:15  
15 received by the Air Force as a second command or acting 10:15  
16 commander at the 49th LRS, the Air Force didn't provide you any 10:15  
17 training on what to do when one of your airmen or airwomen like 10:15  
18 Devin Kelley was reported to you in writing that they were 10:15  
19 under criminal investigation? 10:15

20 A. Correct. 10:15

21 Q. And all you knew to do based on your own I guess 10:15  
22 experience on the job training was to contact, verbally talk to 10:16  
23 the first sergeant on the base? 10:16

24 A. Correct. 10:16

25 Q. Okay. Anything else you would do other than 10:16

1 contacting verbally the first sergeant? 10:16

2 A. Not that I can think of. 10:16

3 Q. For example, I think you said -- I asked you about 10:16

4 where would you put this notification letter and you said 10:16

5 honestly I don't know what I would do with that, I don't know 10:16

6 where I would put that; is that fair? 10:16

7 A. Yes. 10:16

8 Q. So when you were acting commander did you have a 10:16

9 Devin Kelley file? 10:16

10 A. No. 10:16

11 Q. Where did you put any information you received about 10:16

12 Devin Kelley if you received it? 10:16

13 A. I did not receive any documentation that I kept. 10:16

14 Q. Okay. That you kept. All right. So if you received 10:16

15 this letter, like this letter for example you just didn't -- 10:16

16 the Air Force didn't train you to know what to do with it? You 10:16

17 just didn't know what to do with it, right? 10:16

18 A. Correct. 10:16

19 Q. I mean, fair to say -- and I'm just giving an 10:16

20 example. If you got something like this would you just put in 10:16

21 your desk somewhere or put it in the trash? What would you -- 10:16

22 what would you do with it? 10:16

23 A. No, I would not leave this in my desk. No, I would 10:17

24 not put it this in the trash. 10:17

25 Q. Okay. What would you do with it? 10:17

1 A. I would probably talk to the first sergeant to see 10:17  
2 where the best place that this document would be. 10:17

3 Q. Okay. And do you know where that would be? 10:17

4 A. No, I do don't. 10:17

5 Q. Okay. What about your -- well, let's actually talk 10:17  
6 about that more specifically. Did you ever have any 10:17  
7 conversation -- did you ever have any conversations when you 10:17  
8 were second in command and acting commander at Holloman Air 10:17  
9 Force Base with Lieutenant Colonel Marconi or Lieutenant 10:17  
10 Colonel Bearden about how to deal with and how to document and 10:17  
11 how to sort of supervise and monitor an airman like Devin 10:17  
12 Kelley who was under your command and was under an ongoing 10:17  
13 criminal investigation like we see in this document? 10:17

14 A. No. 10:17

15 Q. Okay. 10:17

16 A. Not that I can recall. 10:17

17 Q. Okay. So you don't recall any time in 2011-2012 10:18  
18 timeframe where you would -- you would have any communication 10:18  
19 with Lieutenant Colonel Marconi or Lieutenant Colonel Bearden 10:18  
20 about how to manage and how to supervise and how to keep an eye 10:18  
21 on this ongoing criminal investigation involving one of your 10:18  
22 airmen in your command? 10:18

23 A. In my capacity I am not brought in on the full 10:18  
24 details of any investigation that may be going on. So, no, I 10:18  
25 would not have been told anything about the investigation other 10:18

1 than there is an investigation going on about Member X. But I 10:18  
2 would not have been provided any specific training or knowledge 10:18  
3 beyond that. 10:18

4 Q. Okay. And so -- so what I understand is that first 10:18  
5 specifically as it relates to Devin Kelley you never had any 10:18  
6 communication, conversation, plan, discussions with your 10:18  
7 commanders, Lieutenant Colonel Bearden and Lieutenant Colonel 10:18  
8 Marconi about Devin Kelley when he -- about his criminal 10:19  
9 investigation, correct? 10:19

10 A. That particular statement, no, I had communications 10:19  
11 with them, but not for how to manage an investigation. 10:19

12 Q. Okay. 10:19

13 A. I never touched any sort of investigation. There 10:19  
14 were -- there were instances where the commander if he or she 10:19  
15 was stepping out for a time period and something was going on I 10:19  
16 may have been informed some superficial information about what 10:19  
17 was going on or what might happen during their time away. 10:19

18 Q. All right. Do you remember having any specific 10:19  
19 conversations about Devin Kelley with Lieutenant Colonel 10:19  
20 Bearden or Lieutenant Colonel Marconi? 10:19

21 A. No, I do not remember. 10:19

22 Q. All right. And what is -- what is the first thing 10:19  
23 you remember about you getting involved specifically with his 10:19  
24 criminal allegations? 10:19

25 A. Would have been the letter of reprimand. 10:19

1 Q. Okay. 10:19

2 A. That would have come up prior to issuance. 10:20

3 Q. Okay. 10:20

4 (Document marked Exhibit No. 4.) 10:20

5 Q. I'm going to hand you Exhibit No. 4, sir. And 10:20

6 this is -- this is a October 21, 2011, Memorandum for 49 10:20

7 LRS/CC. Do you see that? 10:20

8 A. Yes, I do. 10:20

9 Q. Relating to Devin Kelley, correct? 10:20

10 A. Correct. 10:20

11 Q. What is -- can you just tell me for the record 49 10:20

12 LRS/CC what does that stand for? 10:20

13 A. That is the commander of the 49th Logistics Readiness 10:20

14 Squadron. 10:20

15 Q. And that's Lieutenant Colonel Marconi, correct? 10:20

16 A. Correct. 10:21

17 Q. And so that would have been the -- when you were 10:21

18 acting commander you would have been the CC acting commander 10:21

19 that's -- 10:21

20 A. Yes. 10:21

21 Q. You would have been the acting comm -- I'm sorry -- 10:21

22 the CC for 49 LRS during the time period you were acting 10:21

23 commander, correct? 10:21

24 A. Correct. 10:21

25 Q. And it says it's for 49 LRS commander about Devin 10:21

1 Kelley and it's from 49th WG/CV. Can you tell me what that is? 10:21

2 A. That is the vice commander of the wing. 10:21

3 Q. And that at the time was Kevin Huyck? Is that how 10:21  
4 you say his name? 10:21

5 A. "Huck." 10:21

6 Q. Huck. Oh. It's simple. The "Y" threw me off. So 10:21  
7 it's H-u-y-c-k is Huck? 10:21

8 A. Yes, sir. 10:21

9 Q. So that's vice commander? 10:21

10 A. Yes, sir. 10:21

11 Q. Of the 49th what? 10:21

12 A. Of the 49th Wing. 10:21

13 Q. Okay. And what is -- what's the difference between 10:21  
14 49th Wing and 49th LRS? 10:21

15 A. The 49th is the number or determination for the wing 10:21  
16 and the organization. The wing is the over arching 10:21  
17 organization. Below the wing there are groups where the 10:22  
18 Mission Support Group would have been one of those groups. 10:22  
19 Below the Mission Support Group there would have been the 10:22  
20 Logistics Readiness Squadron all with the same number. 10:22

21 Q. So wing underneath wing Mission Support Group, 10:22  
22 underneath Mission Support Group LRS? 10:22

23 A. Yes, sir. 10:22

24 Q. And then I believe you told me earlier 49th Security 10:22  
25 Forces is separate? 10:22

1 A. Yes. 10:22

2 Q. Is it separate from the wing? 10:22

3 A. It is separate from the Logistics Readiness Squadron. 10:22

4 It falls underneath the Mission Support Group. 10:22

5 Q. Okay. So LRSW and 49th Security Forces fall under 10:22  
6 the Mission Support Group with falls under the wing? 10:22

7 A. Correct. 10:22

8 Q. And who's above the 49th Wing? 10:22

9 A. It would have been a numbered Air Force commander. 10:22

10 Q. What does that mean? 10:22

11 A. Numbered Air Force is an administrative organization 10:22  
12 that provides the next level of oversight for the wings. 10:23

13 Q. Which numbered would it be? Is it 12th? 10:23

14 A. I am not entirely sure. 10:23

15 Q. Okay. And what I mean by that is, when you say a 10:23  
16 numbered you mean there's going to be a specific number 10:23  
17 attached to it? I just can't remember which number it is, but 10:23  
18 -- 10:23

19 A. That is correct. 10:23

20 Q. -- it's some kind of number -- 10:23

21 A. There would have been some kind of number Air Force 10:23

22 -- 10:23

23 Q. Command? 10:23

24 A. -- command. 10:23

25 Q. Okay. And the reason I threw 12 out, that wasn't 10:23

1 random. I've seen a lot of references to 12 Air Force Command 10:23  
2 in relation to this particular file for Devin Kelley and so 10:23  
3 without -- I'm not asking you to say that's the one, but are 10:23  
4 you familiar that there's a 12th Air Force Command? 10:23

5 A. Yes. 10:23

6 Q. Okay. And who's above -- would that -- would that 10:23  
7 numbered Air Force command, whether it's 12 or another one, 10:23  
8 would that be sort of like a regional command? Or is that a 10:24  
9 different type of command? 10:24

10 A. It can be a regional command. It could also be a 10:24  
11 functional command. 10:24

12 Q. And what is the difference between those two? 10:24

13 A. Regional would be a geographic command which is based 10:24  
14 off of a portion of land. A functional command would be based 10:24  
15 off a specific capability that they're wanting to do. For 10:24  
16 example -- 10:24

17 Q. Okay. 10:24

18 A. -- United States Transportation Command is a 10:24  
19 functional command. 10:24

20 Q. Okay. And so let me give you an example, Region 2 10:24  
21 Command was a geographic command that was over, I believe it 10:24  
22 was over Holloman Air Force Base. Am I correct in that 10:24  
23 understanding? 10:24

24 A. I don't know. 10:24

25 Q. Okay. And you're not sure whether the numbered Air 10:24

1 Force command, whether it's 12 or another one, is a region or a 10:24  
2 function; is that right? 10:24

3 A. No. I do not know for sure. 10:24

4 Q. Okay. And when we're talking about regional command, 10:24  
5 what I'm talking about is a command structure that has 10:24  
6 supervisory oversight over a region of the country. So it 10:25  
7 won't just be one Air Force base. It may be an Air Force base 10:25  
8 -- all the Air Force bases in the state or all the Air Force 10:25  
9 Bases in more than one state that are regioned? 10:25

10 A. Yes. That is possible. 10:25

11 Q. Okay. Who, if you know, was above the numbered Air 10:25  
12 Force command in a sort of organizational chart structure? 10:25

13 A. In this one I believe it would be the Air Combat 10:25  
14 Command commander. 10:25

15 Q. Air Combat Commander? 10:25

16 A. Correct. 10:25

17 Q. And -- 10:25

18 A. And that acronym is ACC. 10:25

19 Q. I was going to ask you ACC. And do you know who that 10:25  
20 was? 10:25

21 A. No, I do not. 10:25

22 Q. Okay. And who's above the Air Combat Commander? 10:25

23 A. Air Force secretary. Secretary of the Air Force. 10:25

24 Q. The secretary of the Air Force. Okay. 10:25

25 Okay. Let me go back to Exhibit No. 4. You see that 10:26

1 under subject it says Central Registry Board Incident 10:26

2 Determination. Do you see that? 10:26

3 A. Yes. 10:26

4 Q. Okay. And I'll tell you what I'll do this. Okay. 10:26

5 It's on the screen. It might be a little easier to see because 10:27

6 the writing on here is a little -- a little hard to tell. 10:27

7 Okay. So this is 14752, which is also Deposition Exhibit No. 10:27

8 4, and it's a Memorandum, October 21, 2011, for 49 LRS where 10:27

9 you were second in command and then acting commander at times 10:27

10 and it's from the 49th Wing. And the subject of this says 10:27

11 Central Registry Board Incident Determination. Do you see 10:27

12 that? 10:27

13 A. Yes, I do. 10:27

14 Q. Okay. And then the first paragraph, I'll highlight 10:27

15 it for you says: The CRB met on October 21, 2011 to review 10:27

16 incident 20110050 involving A1C Devin Kelley. That's -- do you 10:27

17 see that? 10:27

18 A. Yes, I do. 10:27

19 Q. Do you know what a CRB is? 10:27

20 A. Other than the spelling of it, no, I do not. 10:28

21 Q. Okay. And what you're saying other than the fact 10:28

22 that it tells you in this letter that was sent to your squadron 10:28

23 that CRB means Central Registry Board and you have no 10:28

24 understanding of what that is outside of how it's described in 10:28

25 this letter. 10:28

1 A. That is correct. 10:28

2 Q. The next sentence says -- regarding Devin Kelley the 10:28  
3 next sentence says: The allegation was child physical 10:28  
4 maltreatment of JL by A1C Devin Kelley. The board determined 10:28  
5 the incident--met is circled--met the criteria for child 10:28  
6 physical maltreatment, entry into the DoD Central Registry 10:28  
7 database. Do you see that? 10:28

8 A. Yes, I do. 10:28

9 Q. Okay. Now, this -- this is signed by Kevin Huyck, 10:28  
10 Colonel, U.S. Air Force Vice Commander, correct? 10:28

11 A. Correct. 10:29

12 Q. And he was the 49th Wing Vice Commander; is that 10:29  
13 right? 10:29

14 A. That is correct. 10:29

15 Q. It's signed by Lieutenant Colonel Marconi who is the 10:29  
16 commander of your squadron, correct? 10:29

17 A. Correct. 10:29

18 Q. And that's -- that's the position you would sometimes 10:29  
19 hold as acting commander, correct? 10:29

20 A. Correct. 10:29

21 Q. So when we see Commander 49th Logistics Readiness 10:29  
22 Squadron anywhere that is, when you say you were acting 10:29  
23 commander that's the position you sometimes held at Holloman, 10:29  
24 correct? 10:29

25 A. Correct. 10:29

1 Q. All right. So on October 21, 2011, the headquarters 10:29  
2 49th Wing Air Combat Command was notifying your outfit LRS that 10:29  
3 Devin Kelley was determined by the Central Registry Board to 10:29  
4 have met the criteria for child physical maltreatment, correct? 10:29

5 A. Correct. 10:29

6 Q. And entry into something called the DoD Central 10:29  
7 Registry database, right? 10:29

8 A. That he met the criteria to have be entered, correct. 10:30

9 Q. Okay. So when this was received on October 2011 by 10:30  
10 the 49th LRS -- when you were acting commander during this 10:30  
11 timeframe when you received this where -- what would you have 10:30  
12 done with it? 10:30

13 A. I did not receive this, but I would have contacted 10:30  
14 the first sergeant. 10:30

15 Q. Okay. So again the first thing you would have done 10:30  
16 would have a conversation with the first sergeant and then put 10:30  
17 this document somewhere? 10:30

18 A. Correct. 10:30

19 Q. Okay. Would you have done anything else? 10:30

20 A. No. 10:30

21 Q. Okay. Did Lieutenant Colonel Marconi inform you when 10:30  
22 you were second commander at LRS said, hey, I just got another 10:30  
23 communication saying that this guy Devin Kelley in our command 10:30  
24 now has met the criteria at least according to this board of 10:30  
25 child physical maltreatment? 10:30

1 A. I don't know if I was the acting commander at the 10:30  
2 time Colonel Marconi received this document. 10:31

3 Q. No. That's not what I -- I'm sorry if I wasn't clear 10:31  
4 on that. That was not what I asked. My question was: Would 10:31  
5 -- let me -- let me -- let me rephrase it. You were -- if you 10:31  
6 were not acting commander in 2011 and '12 you would have been 10:31  
7 second in command, correct? 10:31

8 A. Correct. 10:31

9 Q. All right. And first of all, do you -- you don't 10:31  
10 recall Lieutenant Marconi informing you as second command that 10:31  
11 one of your men, Devin Kelley, had been found to meet the 10:31  
12 criteria for child physical maltreatment? 10:31

13 A. That is correct. 10:31

14 Q. That's an alarming thing for someone in your -- in 10:31  
15 your squadron who you have command over to be accused of, 10:31  
16 correct? 10:31

17 A. According to what's on this piece of paper, yes. 10:31

18 Q. I mean, that would have been -- and this is -- this 10:31  
19 is a document from I believe you said was -- you see that ACC 10:31  
20 up there, 49th ACC, at the very top? 10:31

21 A. Correct. 10:31

22 Q. That's the Air Combat Commander, the person who is 10:32  
23 just -- the command just below the secretary of the Air Force, 10:32  
24 correct? 10:32

25 A. Air Combat commander -- Air Combat Command Commander 10:32

1 is below the secretary of the Air Force, but that did not come 10:32  
2 from his office. 10:32

3 Q. Well, where do you think it came from? 10:32

4 A. It came from the 49th Wing commander, the vice 10:32  
5 commander's office. 10:32

6 Q. Okay. All right. 10:32

7 A. That is standard letterhead that goes on there that 10:32  
8 let's people know that the 49th Wing belongs to Air Combat 10:32  
9 Command. 10:32

10 Q. Okay. I understand. I understand. Thank you for 10:32  
11 that. That helps me. 10:32

12 Okay. So this came from the vice commander 49th Wing 10:32  
13 to your LRS department and was received by Lieutenant Colonel 10:32  
14 Marconi, the commander, right? 10:32

15 A. I don't know if he received it, but he signed it and 10:32  
16 saying he acknowledged it. 10:32

17 Q. Well, there's only one -- how can he sign it without 10:32  
18 receiving it? I don't mean to be cute, sir, but how does 10:32  
19 someone sign a document without receiving it whether 10:33  
20 electronically or in their hands? 10:33

21 A. The way I understood your question was, who first 10:33  
22 received it. 10:33

23 Q. Oh. Okay. I didn't say that, but that's okay if you 10:33  
24 understood it that way. That's okay. That's a great example 10:33  
25 of clarifying because I don't want to be misleading. Marconi's 10:33

1 signature appears on this document so he received it; fair to 10:33  
2 say? 10:33

3 A. Correct. 10:33

4 Q. Okay. So again just to be clear Lieutenant Colonel 10:33  
5 Marconi as far as you can recall didn't let you know as second 10:33  
6 in command that Devin Kelley had been -- met the criteria for 10:33  
7 child physical maltreatment, right? You don't remember being 10:33  
8 informed of that, correct? 10:33

9 A. I do not remember being informed. 10:33

10 Q. And you do not know what happened to this document 10:33  
11 when it was received at your 49th LRS, correct? 10:33

12 A. Correct. 10:33

13 Q. You don't know, and like I think you just told us, if 10:33  
14 you had received it you would have just told the first sergeant 10:33  
15 about it who was the first sergeant at the time, right? 10:33

16 A. Correct. 10:33

17 Q. And then what would you have done with this document? 10:33

18 A. I would have asked him what we do with this document. 10:33

19 Q. Okay. Who would you have asked? 10:34

20 A. The first sergeant. 10:34

21 Q. Okay. So the first sergeant would be the one to tell 10:34  
22 you what to do with this document -- 10:34

23 A. Yes. 10:34

24 Q. -- if you would have received it, correct? 10:34

25 A. If I had received it, yes. 10:34

1 Q. Okay. Got it. Okay. 10:34

2 Mr. ALSAFFAR: You know, we've been going for about 10:34

3 an hour. You want to take a break? 10:34

4 THE WITNESS: Sure. 10:34

5 MR. ALSAFFAR: Okay. 10:34

6 (Brief break taken at 10:34 a.m.) 10:34

7 (Back on the record at 10:44 a.m.) 10:44

8 BY MR. ALSAFFAR: 10:44

9 Q. Okay. Sir, we were talking about the October 21, 10:44

10 2011, letter that was sent to your squadron and that was 10:44

11 received and signed by Commander Marconi, and we're almost done 10:44

12 with this, but I just wanted to ask you: So on October 21, 10:44

13 2011, this board made a determination that Devin Kelley met the 10:45

14 -- met the criteria for child physical maltreatment, correct, 10:45

15 according to the letter? 10:45

16 A. If that's -- I don't know what the Central Registry 10:45

17 Board does, but it does reference child physical maltreatment. 10:45

18 Q. And it references that this board -- so whoever is on 10:45

19 this board determined that Devin Kelley specifically met the 10:45

20 criteria for child physical maltreatment, right? 10:45

21 A. Correct. 10:45

22 Q. And would you expect a board that is making a 10:45

23 determination of child physical maltreatment and then entering 10:45

24 it into the DoD Central Registry Database would do so only when 10:45

25 they have reasonable grounds to believe that -- that Devin 10:45

1 Kelley did in fact commit this act? 10:45

2 MS. KRIEGER: Objection. Calls for speculation. 10:46

3 BY MR. ALSAFFAR: 10:46

4 Q. You can answer. 10:46

5 A. It seems like a logical statement. 10:46

6 Q. Okay. And have you ever had any interaction with 10:46

7 Colonel Huyck? 10:46

8 A. Not that I can recall. 10:46

9 Q. All right. How often did you meet with Commander 10:46

10 Marconi, interact with him when you were at Holloman Air Force 10:46

11 Base? 10:46

12 A. Several times a day. 10:46

13 Q. Okay. And that was -- was that true throughout your 10:46

14 time at Holloman Air Force Base, you know, generally speaking? 10:46

15 A. Yes. 10:46

16 (Document marked Exhibit No. 5.) 10:47

17 Q. Okay. I'm handing you Exhibit No. 5. Could you 10:47

18 please review that just silently to yourself and tell me when 10:47

19 you've had a chance to review it. 10:47

20 A. I've reviewed it. 10:47

21 Q. Okay. Exhibit 5 is marked USA13387 and I've also got 10:48

22 it up on the screen if it's a little easier for you to see. 10:48

23 This is a -- this is a true and correct copy of actually a 10:48

24 letter, a memorandum that you personally authored, correct? 10:48

25 A. No. I did not author it. 10:48

1 Q. Okay. It says Nathan McLeod-Hughes, who's that? 10:48

2 A. I signed it, but did not author it. 10:48

3 Q. Okay. All right. And I appreciate the specificity. 10:48

4 Okay. Who authored this for you? 10:48

5 A. I'm not entirely sure, but I would believe the first 10:48  
6 sergeant did. 10:48

7 Q. Okay. So this is dated April 7, 2012. Signed by you 10:48  
8 Nathan McLeod-Hughes, Major U.S. Air Force, Acting Commander, 10:48  
9 49th Logistics Readiness Squadron, correct? 10:48

10 MS. KRIEGER: Objection. I think you misstated the 10:48  
11 date. 10:48

12 MR. ALSAFFAR: Did I? What did I say. 10:48

13 MS. KRIEGER: I think you said the 7th. 10:48

14 BY MR. ALSAFFAR: 10:48

15 Q. Oh. Thank you. Thank you. 10:48

16 Let me restate the question. This letter, memorandum 10:48  
17 dated April 17, 2012, is signed by you as acting commander of 10:49  
18 the 49th Logistics Readiness Squadron, correct? 10:49

19 A. It looks like my signature, yes. 10:49

20 Q. Okay. And that was my next question. That's your 10:49  
21 signature? It looks like your signature, right? 10:49

22 A. Correct. 10:49

23 Q. Okay. And this is a true and correct copy of that 10:49  
24 letter, correct? 10:49

25 A. It appears so. 10:49

1 Q. All right. Anything on here -- have you seen this 10:49  
2 letter before today? 10:49

3 A. I saw it yesterday. 10:49

4 Q. Okay. So this was one of the -- I think, yeah, this 10:49  
5 was one of the documents. It is. This is one of the documents 10:49  
6 that you specifically reviewed in preparation for this 10:49  
7 deposition, right? 10:49

8 A. Correct. 10:49

9 Q. All right. And you said that your first sergeant 10:49  
10 would have helped author and put the contents in one through 10:49  
11 four of this letter before you signed it, right? 10:49

12 A. Correct. 10:49

13 Q. And you certainly as acting commander wouldn't sign 10:49  
14 anything that you felt was inaccurate or not correct; is that 10:49  
15 fair to say? 10:49

16 A. Correct. 10:49

17 Q. All right. So everything in this letter April 17, 10:49  
18 2012 is accurate and correct? 10:49

19 A. To the best of my knowledge, yes. 10:49

20 Q. All right. And that's why you signed it, right? 10:49

21 A. Correct. 10:49

22 Q. So let's look at it a little more specifically now. 10:49  
23 First, this is a -- it says a memorandum for A1C Devin Patrick 10:50  
24 Kelley, true? 10:50

25 A. Correct. 10:50

1 Q. All right. Is Devin Kelley, he's the shooter, right? 10:50

2 A. Correct. 10:50

3 Q. All right. And it says from 49 LRS/CC. When you see 10:50  
4 that again that means 49 Logistics Readiness Squadron Command, 10:50  
5 right? 10:50

6 A. Commander. 10:50

7 Q. Commander. And that's -- at this point that's when 10:50  
8 you were acting commander? 10:50

9 A. Correct. 10:50

10 Q. So at least we're getting a little specific on when 10:50  
11 you were acting commander at Holloman Air Force Base, correct? 10:50

12 A. Correct. 10:50

13 Q. All right. Number 1, it states, "Investigation has 10:50  
14 revealed that you physically assaulted Mrs. Tessa K. Kelley on 10:50  
15 or about February 17, 2012 at 2629B McKinley Loop, Holloman Air 10:50  
16 Force Base, New Mexico." Did I read that correctly? 10:50

17 A. Correct. 10:50

18 Q. And that -- that -- so that's stating that Devin 10:50  
19 Kelley assaulted Tessa Kelley on Holloman Air Force Base itself 10:51  
20 on February 17, 2012, correct? 10:51

21 A. Correct. 10:51

22 Q. The next sentence says, "That on multiple occasions 10:51  
23 you physically assaulted your spouse. On this occasion you 10:51  
24 punched her in the arm and slapped her with an open hand while 10:51  
25 you were involved in a verbal/physical altercation." Is that 10:51

1 correct? 10:51

2 A. Correct. 10:51

3 Q. All right. And so what you're stating is -- by the 10:51  
4 way, where is this being sent? Is this to Devin Kelley 10:51  
5 himself? 10:51

6 A. This is to Devin Kelly, correct. 10:51

7 Q. Okay. And where does this -- this go in the file? 10:51  
8 Where do you put this after you send it? Do you keep a copy, 10:51  
9 for example? 10:51

10 A. I do not keep a copy, no. 10:51

11 Q. Who does? 10:51

12 A. I believe the first sergeant would normally keep a 10:51  
13 copy of this document. 10:51

14 Q. Okay. It sounds to me that when you were either 10:51  
15 acting commander or second command and there's any kind of 10:51  
16 worrisome involvement of a person in your command like Devin 10:51  
17 Kelley, the first sergeant work closely with you was sort of 10:51  
18 your right-hand man in managing the file relating to that 10:51  
19 person; is that fair to say? 10:52

20 A. Yes. 10:52

21 Q. Okay. And so what would a first sergeant at the time 10:52  
22 have done to help author this for your signature to get this 10:52  
23 information? 10:52

24 A. I don't know specifically. 10:52

25 Q. Do you know generally? 10:52

1 A. Would have been likely involved in previous 10:52  
2 altercations that this document is referencing. 10:52

3 Q. And how would the first sergeant come about this 10:52  
4 information to provide to you such that you would be willing to 10:52  
5 sign it and actually issue a reprimand for it? 10:52

6 A. Logically would have gotten from security forces. 10:52

7 Q. Okay. So would the first sergeant under your command 10:52  
8 have been communicating with the 49th Security Forces to get 10:52  
9 this information? 10:53

10 A. I would infer yes. 10:53

11 Q. Okay. And how would -- how would that happen? Would 10:53  
12 the 49th Security Forces have contacted your first sergeant or 10:53  
13 -- is that how it would work? 10:53

14 A. I don't know how that would have happened. 10:53

15 Q. Okay. So during your experience at Holloman Air 10:53  
16 Force Base when you were either in second command or command 10:53  
17 how would -- what's your understanding of how you would become 10:53  
18 aware of one of your airmen being subject to not only a 10:53  
19 criminal investigation, but also findings that you believe 10:53  
20 reasonable grounds were that that persons committing, in this 10:53  
21 case an assault? 10:53

22 A. The first sergeant would contact me usually verbally. 10:53  
23 More than likely coming into the office that I was occupying at 10:53  
24 the time, close the door and pass on the pertinent information. 10:53

25 Q. Do you remember the first sergeant coming to you and 10:53

1 communicating this particular incident to you about Devin 10:53

2 Kelley? 10:53

3 A. The particular -- at the time the incident occurred, 10:53

4 no. 10:53

5 Q. Okay. The process you described, or the way you 10:54

6 would find out about an airman like Devin Kelley assaulting a 10:54

7 spouse would be the first sergeant would come to you and 10:54

8 verbally communicate that to you? Is that the process? Your 10:54

9 experience at Holloman Air Force Base with this and other 10:54

10 people in your command who have been subject to investigation? 10:54

11 A. That would be how I would expect it, yes. 10:54

12 Q. Okay. And when that verbal communication from your 10:54

13 first sergeant would come to you would you inquire, well, tell 10:54

14 me how did you find out about this? Where you getting this 10:54

15 information from, etcetera? Do you inquire? 10:54

16 A. I don't recall asking that specific question. 10:54

17 Q. What would you have done you think? 10:54

18 A. I would have requested proof -- 10:54

19 Q. Okay. 10:54

20 A. -- of why this is happening. 10:54

21 Q. All right. So -- and do you believe that's what you 10:54

22 would have done in this situation with Devin Kelley, requested 10:54

23 proof before signing this kind of memorandum? 10:54

24 A. If I was receiving it at the time it happened, yes. 10:54

25 Q. Okay. And what kind of proof would you have 10:55

1 requested? 10:55

2 A. If -- if it was a security forces notification some 10:55  
3 sort of document from them highlighting the altercation. If it 10:55  
4 was part of a grander investigation I don't know if they would 10:55  
5 pass that information on. 10:55

6 Q. Would you have -- would you have documented that 10:55  
7 proof somewhere? Would you have taken note of that saying, 10:55  
8 listen, you know, obviously I'm putting this letter together 10:55  
9 but I'm also going to contemporaneously document the 10:55  
10 information I got to back what I'm saying -- back up what I'm 10:55  
11 saying in this letter? 10:55

12 A. No, I would not. 10:55

13 Q. Okay. And I think from our earlier conversation at 10:55  
14 this point April 17, 2012, when you're specifically 10:55  
15 reprimanding Devin Kelley for assault, you would not have 10:55  
16 inquired or asked about collection of fingerprints or 10:56  
17 submission of fingerprints to the FBI; is that fair to say? 10:56

18 A. At the time the letter of reprimand is provided there 10:56  
19 is no two way conversation, but there's nothing involving 10:56  
20 fingerprints in issuing the document. 10:56

21 Q. So because there's no kind of conversation is my 10:56  
22 statement correct, that when you were issuing this reprimand 10:56  
23 stating that Devin Kelley's actions violated Article 128 of US 10:56  
24 -- UCMJ-Assault you would not have then followed up or inquired 10:56  
25 about fingerprint collection or fingerprint submission to the 10:56

1 FBI? That's not something you would have done? 10:56

2 A. No, that is not something I would have done. 10:56

3 Q. Okay. And so at this point you had reasonable 10:56

4 grounds yourself to believe that Devin Kelley had committed 10:56

5 assault on his wife, right? 10:56

6 A. Correct. 10:56

7 Q. And that's why you issued this letter, right? 10:56

8 A. Correct. 10:56

9 Q. Okay. So at this point at least the 49 LRS as the 10:56

10 acting commander April 17, 2012, you knew that Devin Kelley was 10:56

11 a dangerous individual; fair to say? 10:57

12 A. Yes. 10:57

13 Q. Okay. Somebody who's assaulting his wife is a 10:57

14 dangerous individual, right? 10:57

15 A. Correct. 10:57

16 Q. Okay. That's somebody who's dangerous to the public. 10:57

17 Would you agree to that? 10:57

18 MS. KRIEGER: Objection to form. 10:57

19 A. I don't know if he's dangerous to the public. 10:57

20 BY MR. ALSAFFAR: 10:57

21 Q. Okay. Do you think that people that are willing to 10:57

22 beat their wives are potentially also dangerous to the public? 10:57

23 MS. KRIEGER: Objection to form. 10:57

24 BY MR. ALSAFFAR: 10:57

25 Q. People who can't control themselves? 10:57

1 MS. KRIEGER: Objection. 10:57

2 A. I believe they are dangerous, but I don't know to 10:57  
3 who. 10:57

4 BY MR. ALSAFFAR: 10:57

5 Q. Okay. Could be dangerous to people other than the 10:57  
6 people they're beating up, right? 10:57

7 A. Could be. 10:57

8 Q. All right. Because that's somebody who's not stable; 10:57  
9 somebody who beats their wife, right? 10:57

10 A. I would think so, correct. 10:57

11 Q. Somebody who beats children is not a stable person, 10:57  
12 somebody who's dangerous. If you beat children and your wife 10:57  
13 you're a dangerous person. Would you agree with that? 10:57

14 A. Yes. 10:57

15 MS. KRIEGER: Objection. 10:57

16 BY MR. ALSAFFAR: 10:57

17 Q. If you're a person who beats your children and your 10:57  
18 wife and you've been trained to use guns it's a heightened 10:57  
19 danger as well. Would you agree with that? 10:58

20 MS. KRIEGER: Objection. You can answer. 10:58

21 A. Yes, I would agree to that. 10:58

22 BY MR. ALSAFFAR: 10:58

23 Q. Okay. And if you're a person who is somebody who 10:58  
24 assaults children and assaults a spouse and you're trained to 10:58  
25 use a gun you are somebody who is an increased risk of harm to 10:58

1 not only those people, but to other people as well in the 10:58  
2 public, correct? 10:58

3 MS. KRIEGER: Objection. Calls for speculation. 10:58

4 A. I would say yes. 10:58

5 BY MR. ALSAFFAR: 10:58

6 Q. Okay. Now, do -- at this point in time do you know 10:58  
7 -- let's look at the letter. It's still up there. At this 10:58  
8 point in time did your office or you as acting commander 10:58  
9 instruct anyone in your office to investigate whether or not 10:59  
10 Devin Kelley had his weapons? 10:59

11 A. I did not. 10:59

12 Q. Okay. Did you instruct anybody as the acting 10:59  
13 commander of Devin Kelley's unit and squadron to look into 10:59  
14 whether or not he still had weapons? 10:59

15 A. No. 10:59

16 Q. Okay. And why was that? 10:59

17 A. It's not my job. 10:59

18 Q. It's not your job. Okay. 10:59

19 A. I don't have the ability to have members of my unit 10:59  
20 do that investigation if an investigation is warranted. 10:59

21 Q. Okay. So it's as acting commander of Devin Kelley's 10:59  
22 squadron you didn't view it as your job to ensure that somebody 10:59  
23 who you believe had assaulted his wife and was -- you've got 10:59  
24 reasonable grounds to believe that he had violated Article 128 10:59  
25 Assault needed to have any weapons taken from him? 10:59



1 A. He was under the command, yes. 11:01

2 Q. Okay. And I'm submitting to you that in April 2012 11:01  
3 he received -- he had his hands on the hard drive of a copy of 11:01  
4 the confession Devin Kelley submitted. Did he ever communicate 11:01  
5 to you that you had -- that he had the confession video and 11:01  
6 that -- 11:01

7 A. No. 11:01

8 Q. Okay. And so you were not aware that your first 11:01  
9 sergeant both had a confession video and submitted it to the 11:01  
10 AFOSI as well? 11:01

11 A. Correct. 11:01

12 Q. Would you have wanted to know that one of your airmen 11:01  
13 in your command on videotape confessed to multiple crimes, 11:02  
14 multiple felonies? 11:02

15 A. Yes. 11:02

16 Q. What would you have done if you had found that out? 11:02

17 A. Talked to the first sergeant to find out what, if 11:02  
18 any, there was further grounds that we could do. 11:02

19 Q. Okay. Would you have documented that as well and 11:02  
20 followed up to make sure that at that point if you had an 11:02  
21 airman like Devin Kelley who had admitted to -- himself 11:02  
22 admitted on video that he beat his wife and beat his children, 11:02  
23 or beat a child that you would want to be aware of that to 11:02  
24 protect others potentially including the children and the wife, 11:02  
25 but also others potentially on the Air Force base? 11:02

1 MS. KRIEGER: Objection to form. Compound question. 11:02

2 A. I'm not entirely clear on the question. 11:03

3 BY MR. ALSAFFAR: 11:03

4 Q. Okay. Let me rephrase it then. Would you want to -- 11:03

5 first of all, would you want to know when an airman like Devin 11:03

6 Kelley had confessed to violent crimes such as beating his wife 11:03

7 and beating a child? 11:03

8 MS. KRIEGER: Objection. Asked and answered. 11:03

9 BY MR. ALSAFFAR: 11:03

10 Q. Would you want to know that? 11:03

11 A. I don't know what would benefit me from gaining that 11:03

12 information if security forces or AFOSI has attained that 11:03

13 information. 11:03

14 Q. Well, let's put aside because my understanding is 11:03

15 that you -- you just -- you didn't necessarily know when AFOSI 11:03

16 or security forces were aware of crimes or investigations? I 11:03

17 mean, you didn't always know that was going on, correct? 11:03

18 A. Correct. But if he is on record, video record as 11:04

19 confessing, more than likely security forces or OSI would have 11:04

20 provided that -- that material to the squadron at which point I 11:04

21 would have presumed they would -- he would be already under an 11:04

22 investigation. 11:04

23 Q. Okay. So you're making those assumptions? 11:04

24 A. Correct. 11:04

25 Q. Okay. Now, I think you established that if your own 11:04

1 -- if somebody actually in your command under your supervision, 11:04  
2 you know, like your first sergeant had been made aware of a 11:04  
3 confession video about one of the folks in your command like 11:04  
4 Devin Kelley beating a spouse and child that's something you 11:04  
5 would want to know about, correct? 11:04

6 A. Correct. 11:04

7 Q. And one of the reason you would want to know about 11:04  
8 that is that at that point you would be made aware that there's 11:04  
9 somebody in my command that I'm responsible for who is a threat 11:04  
10 to people on base, correct? 11:04

11 MS. KRIEGER: Objection to form. 11:04

12 BY MR. ALSAFFAR: 11:04

13 Q. Is that one of the reasons you would want to know 11:04  
14 that? 11:04

15 A. It would be dependent on the status of that 11:05  
16 individual. 11:05

17 Q. What you mean? 11:05

18 A. If the individual is already in custody -- 11:05

19 Q. Right. 11:05

20 A. -- then at that particular time I don't think he 11:05  
21 would be a threat. 11:05

22 Q. Okay. So in other words -- well, if you were -- let 11:05  
23 me -- let's break it down a little bit. If you were told 11:05  
24 someone like Devin Kelley, which happened he confessed to two 11:05  
25 felonies beating a child and beating his spouse, you would -- 11:05

1 the safest thing would be for him to be in confinement or jail 11:05  
2 at that point, correct? 11:05

3 A. Correct. 11:05

4 Q. Okay. If he wasn't you would want him to be because 11:05  
5 he would pose a threat to not only his wife and child but 11:05  
6 potentially other people on base, right? 11:05

7 A. Correct. 11:05

8 Q. Okay. Because people confessing to dangerous 11:05  
9 felonies -- let me ask you this: Do you agree that a person 11:05  
10 who, like Devin Kelley, confesses to those two crimes is a 11:05  
11 dangerous person? 11:05

12 A. Correct. 11:05

13 Q. Okay. And if somebody's a dangerous person who's 11:05  
14 been trained with how to use weapons and has weapons confesses 11:06  
15 to crimes like that they are a danger not only to his wife and 11:06  
16 his kids but also to the public on base and potentially even 11:06  
17 outside of base, correct? 11:06

18 MS. KRIEGER: Objection. Calls for speculation. 11:06

19 BY MR. ALSAFFAR: 11:06

20 Q. Do you think that's a fair statement? 11:06

21 A. Yes. 11:06

22 Q. Okay. And so if a person like Devin Kelley confesses 11:06  
23 to those crimes and who is armed or trained how to use weapons 11:06  
24 is not in confinement at that time and you're made aware of it 11:06  
25 you'd want to know and want to do something to find out if that 11:06

1 person is a danger to everybody, right? 11:06

2 A. Correct. 11:06

3 Q. If that person's in your command, fair enough? 11:06

4 A. Correct. 11:06

5 Q. Okay. And Devin Kelley was, at the time he  
6 confessed, he was in your command, right? 11:06

7 A. He was in the squadron, yes. 11:06

8 Q. And I just want to mark this because I don't think we  
9 marked it yet. 11:06

10 (Document marked Exhibit No. 6.) 11:06

11 Q. I'm handing you Exhibit No. 6, and this is a file 11:07  
12 that was provided to us in response to our discovery request 11:07  
13 and subpoenas in this case, Exhibit No. 6. If you just want to 11:07  
14 take a minute. It's a fairly big file. It's got a lot of 11:07  
15 stuff in it, but take a look at it and tell me if it looks 11:07  
16 familiar at all to you after you've had a chance to skim 11:07  
17 through it. 11:07

18 MS. KRIEGER: Excuse me. Sorry. 11:07

19 A. Okay. I've reviewed the first few pages. 11:09

20 BY MR. ALSAFFAR: 11:09

21 Q. Okay. And do you -- does any of this look familiar 11:09  
22 to you -- 11:09

23 A. No. 11:09

24 Q. -- Exhibit 6? 11:09

25 Okay. Now, I will represent -- and we'll go through 11:09

1 this. There are some things in here that are authored by you 11:09  
2 including this letter -- 11:09

3 A. Okay. 11:09

4 Q. -- in this file, but we'll -- we've already 11:09  
5 identified this so I'm not -- there's no got you here. I just 11:09  
6 want to see if you recognize that file because it's kind of 11:09  
7 organized in a way that's a little unusual, and so we're trying 11:09  
8 to find out from folks what exactly it looks like to them. 11:09

9 Now, most of this file contains documents from either the 49th 11:09  
10 Wing, the 49th Security Forces that were the 49th LRS; is that 11:09  
11 fair to say? 11:10

12 A. From the few that I've seen, yes. 11:10

13 Q. Okay. And what I'd like to do is first turn your 11:10  
14 attention to -- I want to ask you a couple of questions about a 11:10  
15 couple of documents in here. If you would go to Page 13340, 11:10  
16 the top of the page section narrative. Just tell me when you 11:10  
17 get there. It's 13340. 11:10

18 A. Okay. I'm there. 11:10

19 Q. Okay. Thanks. First of all, are you familiar -- do 11:10  
20 you know who Ryan Sablan is? 11:10

21 A. No. 11:11

22 Q. Do you know who Ron Rupe is with the security forces? 11:11

23 A. No. 11:11

24 Q. Those names don't sound familiar to you? Okay. 11:11

25 Do you know what the SFMIS is? 11:11

1 A. No. 11:11

2 Q. All right. When you were at LRS did you have any 11:11  
3 kind of electronic system that you used to take notes about 11:11  
4 whatever it is your job responsibilities were? Or whatever was 11:11  
5 going on, on base in your command? Did you have an electronic 11:11  
6 system you used? 11:11

7 A. I had a system that I used to track my information 11:11  
8 on. 11:11

9 Q. Okay. For example, when we were showing you that 11:11  
10 letter from April 17, 2012, would that have been something you 11:11  
11 would have tracked in an electronic system? 11:11

12 A. No. 11:11

13 Q. You wouldn't have put a note somewhere whether it be 11:11  
14 an internal note, in an electronic system that, oh, I issued a 11:11  
15 letter of reprimand for someone who I believe -- I have 11:11  
16 reasonable grounds and believed committed an assault? You 11:12  
17 wouldn't have noted that anywhere on an electronic file system? 11:12

18 A. No. 11:12

19 Q. Okay. You wouldn't have noted that anywhere in any 11:12  
20 other kind of system whether it be paper, file or otherwise? 11:12

21 A. I would not have noted it, no. 11:12

22 Q. Okay. And I think what you described to me is the 11:12  
23 process for a letter or memorandum like that, the April 17, 11:12  
24 2012 memorandum was to go to the first sergeant, first sergeant 11:12  
25 communicate with them and then that first sergeant would tell 11:12

1 you where to put that document? 11:12

2 A. Yes. 11:12

3 Q. Okay. You just don't know where that document would 11:12  
4 have gone ultimately? 11:12

5 A. Correct. 11:12

6 Q. Okay. And I'm talking about like a file folder in a 11:12  
7 cabinet somewhere. Do you know? 11:12

8 A. I can speculate, but I don't know for definite if the 11:12  
9 first sergeant has a file, they do maintain files of some 11:12  
10 people. I don't know if this document would go in there. I 11:12  
11 don't know at what level documents are no longer kept at the 11:12  
12 squadron level or at his level. 11:12

13 Q. All right. And the reason I'm asking is that one of 11:13  
14 the things I would think you would be concerned is continuity 11:13  
15 of command information. Meaning, that when you would serve as 11:13  
16 acting commander you would want other people who were then 11:13  
17 stepping in as either commander after you or Marconi or Colonel 11:13  
18 Bearden came back they would be aware of what happened while 11:13  
19 you were in command, correct? 11:13

20 A. Correct. 11:13

21 Q. That would be a pretty important thing, the April 17, 11:13  
22 2012, event when you're issuing a letter of reprimand stating 11:13  
23 Devin Kelley you committed -- I have reasonable grounds to 11:13  
24 believe that you committed this assault. You're reprimanded. 11:13  
25 That would be something you'd want your subsequent commander or 11:13

1 whoever came in to relieve you of command would know, right? 11:13

2 A. Yes. 11:13

3 Q. So how would they know about that? 11:13

4 A. The first sergeant would probably pass on the 11:13  
5 information to the commander. 11:13

6 Q. So you'd rely on that point -- I would say you step 11:13  
7 down, your commander comes back and you're no longer acting 11:13  
8 commander you would rely on the first sergeant to at some point 11:14  
9 communicate it in some way, shape, or form to the commander 11:14  
10 next in the chain that, oh, by the way we got somebody on base 11:14  
11 who's a potential threat? 11:14

12 A. Correct. 11:14

13 Q. Okay. And that's how it would happen? There would 11:14  
14 be no other separate documentation? Or let's say the first 11:14  
15 sergeant forgot how would the command know? 11:14

16 A. To the best of my knowledge it would be the first 11:14  
17 sergeant communicating with the commander. 11:14

18 Q. Okay. And if the first sergeant didn't -- I guess 11:14  
19 this would be verbal communication because there's no 11:14  
20 documentation, right? There's no system that you're 11:14  
21 documenting this happened on April 17th and someone could come 11:14  
22 in -- anyone could come into the system and see -- 11:14

23 A. Not that I'm aware of. 11:14

24 Q. Okay. And I'm talking about the time 2011-2012. 11:14  
25 That's the time period I'm talking about. 11:14

1 A. Correct. 11:14

2 Q. Okay. Okay. So remember how we had talked earlier 11:14  
3 that one of the ways that you got the information -- could have 11:14  
4 gotten the information about the content of that April 2012 11:14  
5 letter was the first sergeant communicating with the -- with 11:14  
6 the security forces, correct? 11:14

7 A. Correct. 11:14

8 Q. Okay. And if you look at this document, 13340, this 11:14  
9 is February 21, 2012. Do you see that? That's the date of the 11:14  
10 report. Do you see that top left? It's called the ROI report 11:14  
11 investigation. 11:14

12 A. Correct. 11:15

13 Q. Okay. And then if you look at the next page 11:15  
14 13341, and I'll put it up here as well. And if you want to 11:15  
15 make this easier I'll just highlight it. See this is an 11:15  
16 interview of Tessa Kelley, Devin Kelley's wife on February 17, 11:15  
17 2012. You see that? 11:15

18 A. Yes, I see that. 11:15

19 Q. And you remember in your April letter which you have 11:15  
20 in front of you as well if you want to see it, Exhibit 5, you 11:15  
21 were referencing a February 17, 2012, incident; is that right? 11:16

22 A. Correct. 11:16

23 Q. Okay. And this is a -- this is a report of the 11:16  
24 statement by Tessa Kelley, correct? 11:16

25 A. That's what it looks like, correct. 11:16

1 Q. All right. And if you notice it states that Kelley 11:16  
2 provided us a sworn statement essentially stating the first 11:16  
3 abuse occurred last July 2011. Do you remember in your letter 11:16  
4 you reference that this has been multiple ongoing? 11:16

5 A. Correct. 11:16

6 Q. Okay. And so this abuse had been going on from July 11:16  
7 2011 to February 2012. That would be multiple and ongoing 11:16  
8 abuse, correct? 11:16

9 A. Correct. 11:16

10 Q. And the next sentence says, "Kelley stated he choked 11:16  
11 her in the restroom and on several occasions he's choked her 11:16  
12 because she didn't want to spend Christmas with his family." 11:16  
13 Do you see that? 11:16

14 A. Yes, I do. 11:16

15 Q. That's a violent and dangerous guy, correct? 11:16

16 A. Yes. 11:16

17 Q. "On December 24th Kelley stated he pushed her against 11:16  
18 the wall, choked her and told her, 'you better pack your bags 11:16  
19 or I'll choke you to the and pass out.'" That's an extremely 11:16  
20 violent act by Devin Kelley, isn't it, being reported? 11:16

21 A. Yes. 11:17

22 Q. All right. It's a dangerous person, correct? 11:17

23 A. Yes. 11:17

24 Q. That's a person that puts the public and not only Ms. 11:17  
25 Kelley, but that's the kind of person that puts the public at 11:17

1 an increased risk of harm, don't you think? 11:17

2 MS. KRIEGER: Objection. Calls for speculation. 11:17

3 A. Yes. 11:17

4 BY MR. ALSAFFAR: 11:17

5 Q. Next, "Kelley related she wanted to go for a walk at 11:17  
6 night and Devin told her she couldn't. So they had an argument 11:17  
7 about her going and he proceeded to choke and kick her in the 11:17  
8 stomach." That's a violent and dangerous act, correct? 11:17

9 A. Correct. 11:17

10 Q. All right. That's -- again, that's the kind of 11:17  
11 person that puts Ms. Kelley and others and the public at an 11:17  
12 increased risk of harm, don't you think? 11:17

13 MS. KRIEGER: Objection. 11:17

14 BY MR. ALSAFFAR: 11:17

15 Q. Do you think so? 11:17

16 A. Yes, I think so. 11:17

17 Q. Okay. The next sentence, "Kelley related before they 11:17  
18 went to marriage counseling they discussed their issues, they 11:17  
19 parked at Bethel Church and he said 'you're 90 percent of our 11:17  
20 problems and if you repeat what I say I'll kill you and drag 11:17  
21 your dead body and desert it.'" That is an extraordinarily 11:18  
22 violent threat, would you agree? 11:18

23 A. I would agree. 11:18

24 Q. Okay. "Kelley stated on multiple occasions" -- 11:18  
25 parenthetically this is me speaking. Just for the record, I 11:18

1 apologize for the following language, but it is what is in the 11:18  
2 document. So I'll just state that. I'm going to re-state it. 11:18  
3 "Kelley stated on multiple occasions he's called her a bitch, 11:18  
4 whore, slut, piece of shit, worthless and your family doesn't 11:18  
5 love you. Kelley related they went to get an oil change one 11:18  
6 time and in their conversation with the cashier, he placed his 11:18  
7 hand on her shoulder (meaning to tell her to shut up), she 11:18  
8 slightly moved her shoulder and when they got in the car he 11:18  
9 said, 'Don't ever fucking move away from me and when I'm 11:18  
10 talking my bitch will keep her mouth shut.'" Do you see that? 11:18

11 A. Yes, I see that. 11:18

12 Q. Again, that's extraordinarily threatening and violent 11:18  
13 conduct. Do you agree with that? 11:18

14 A. Yes, I agree. 11:18

15 Q. That's the kind of person that puts the public in 11:18  
16 danger and an increased risk of harm if they're allowed to 11:19  
17 remain in the public, correct? 11:19

18 MS. KRIEGER: Objection. 11:19

19 A. Agree. 11:19

20 BY MR. ALSAFFAR: 11:19

21 Q. Do you think that's the kind of person that should 11:19  
22 have access to dangerous weapons like an AR15 or a 38 revolver 11:19  
23 or 9mm semi automatic gun? 11:19

24 MS. KRIEGER: Objection. Relevance of what this 11:19  
25 witness thinks. 11:19

1 A. I don't know about the types of weapons, but it does 11:19  
2 not seem like he should have access to weapons. 11:19

3 BY MR. ALSAFFAR: 11:19

4 Q. Okay. And if a person like this has access to 11:19  
5 weapons that is the type of thing that exposes the public to 11:19  
6 danger and an increased risk of harm or danger; is that fair to 11:19  
7 say? 11:19

8 MS. KRIEGER: Objection. 11:19

9 A. Agree. 11:19

10 BY MR. ALSAFFAR: 11:19

11 Q. If you look at the next sentence, "Kelley related 11:19  
12 he--Devin Kelley--has punched her in the arm and left a bruise. 11:19  
13 He has told her 'My work is lucky. I'd take a shotgun and blow 11:19  
14 everyone's head off.'" Now, when this evidence was provided to 11:20  
15 the 49th Security Forces specifically that Devin Kelley stated 11:20  
16 "My work is lucky. I'd take a shotgun and blow everyone's head 11:20  
17 off," that is -- that is an even more extraordinary violent 11:20  
18 threat. Do you agree with that? 11:20

19 A. Yes. 11:20

20 Q. And what he's talking about is "my work," that's your 11:20  
21 squadron that you were at this time acting commander of, 11:20  
22 correct? 11:20

23 A. I don't know if I was acting commander at that time. 11:20

24 Q. Okay. Well, in a couple of weeks after that you 11:20  
25 were, correct? April 2012? 11:20

1 A. Yes. Several weeks after that. 11:20

2 Q. Okay. So about three weeks later -- actually a month 11:20  
3 later. We know at the very least a month later you were acting 11:20  
4 commander of Devin Kelley's work, correct? 11:20

5 MS. KRIEGER: Objection. Misstates the evidence. 11:20

6 BY MR. ALSAFFAR: 11:20

7 Q. Let me make sure I'm not misstating the evidence. 11:20  
8 According to Exhibit 5, April 17, 2012 -- I get it now. I get 11:21  
9 it. I get it. You're right. I did misstate the evidence. 11:21

10 We know within two months after this report April 17, 11:21  
11 2012, you were the acting commander of Devin Kelley's work, 11:21  
12 correct? 11:21

13 A. Correct. 11:21

14 Q. So two months prior when you were acting commander, 11:21  
15 at the very least we know that Devin Kelley was making a threat 11:21  
16 that he would take a shotgun and blow everyone's head of at 11:21  
17 work, which is the 49th LRS, correct? 11:21

18 MS. KRIEGER: Objection to form. 11:21

19 A. In the squadron, yes. 11:21

20 BY MR. ALSAFFAR: 11:21

21 Q. All right. And at the very least you were act -- I'm 11:21  
22 sorry -- you were second in command at this time of Devin 11:21  
23 Kelley's workplace, February 17, 2012, right? 11:21

24 A. I was not acting commander on February 17th. 11:21

25 Q. Did I say acting commander? 11:21

1 A. Yes. 11:21

2 Q. I didn't mean to say that. I apologize. At the very 11:21  
3 least we know you were second in command? 11:22

4 A. Yes. 11:22

5 Q. And so we know at the time that he threatened his 11:22  
6 workplace with this shooting you were second in command at 11:22  
7 Holloman Air Force Base, 49th LRS? 11:22

8 A. Correct. 11:22

9 Q. And that's where Devin Kelley worked, correct? 11:22

10 A. Yes. He worked in the squadron. 11:22

11 Q. So this is evidence from Ms. Kelley testifying under 11:22  
12 oath that Devin Kelley made a specific threat to commit a mass 11:22  
13 shooting, right? 11:22

14 A. I don't -- 11:22

15 MS. KRIEGER: Objection. Assumes facts not in 11:22  
16 evidence. 11:22

17 A. I don't know if that -- if that makes a mass shooting 11:22  
18 in his statement. 11:22

19 BY MR. ALSAFFAR: 11:22

20 Q. Okay. Well, let's -- let's break it down a little 11:22  
21 bit. "My work is lucky. I'd take a shotgun and blow 11:22  
22 everyone's head off." That's more than -- he's making a threat 11:22  
23 using a gun to kill more than one person. In fact, he's saying 11:22  
24 everyone, correct? 11:22

25 A. Correct. 11:22

1 Q. Okay. On February -- it goes on, "On February" -- so 11:23  
2 at this point -- let me just rephrase. At this point February 11:23  
3 14, 2012, 49th Security Forces knows that Devin Kelley has 11:23  
4 stated a treat that involves a potential mass shooting, right? 11:23

5 MS. KRIEGER: Objection. The document speaks for 11:23  
6 itself. 11:23

7 BY MR. ALSAFFAR: 11:23

8 Q. You can answer. 11:23

9 A. I don't know what is considered a mass shooting, but 11:23  
10 that he would shoot more than one person, yes. 11:23

11 Q. Okay. Whether or not you define shooting everyone at 11:23  
12 work and blowing their head off is a mass shooting and 11:23  
13 certainly threatening shooting more than one person in a 11:23  
14 violent manner, correct? 11:23

15 A. Correct. 11:23

16 Q. Okay. And the Air Force was aware -- the 49th was 11:23  
17 aware of this on February 17, 2012, correct? 11:23

18 A. The 49th was. I don't know how you define the Air 11:23  
19 Force. If you're defining it as the security forces as being 11:23  
20 part of the Air Force, then yes. 11:23

21 Q. I am defining that. So when I say "Air Force" I mean 11:24  
22 -- and that's a correct statement, right? The 49th Security 11:24  
23 Forces is a part of the Air Force, right? 11:24

24 A. It is a part of the Air Force. 11:24

25 Q. Okay. And so if the 49th was aware of it then the 11:24

1 Air Force was aware on February 17, 2012, that that evidence of 11:24  
2 a threat was made for a very violent shooting? 11:24

3 A. Well, a portion of the Air Force was -- 11:24

4 Q. That's fine. 11:24

5 A. I don't mean to quibble, but -- 11:24

6 Q. That's okay. 11:24

7 A. -- if you say the Air Force it makes it seem a larger 11:24  
8 group. 11:24

9 Q. I understand. I understand. Okay. Well, we can 11:24  
10 keep it to what you're comfortable with. And what we do know 11:24  
11 is that the 49th Security Forces which is part of the Air 11:24  
12 Force, was aware that they had evidence on February 7, 2012, 11:24  
13 that Devin Kelly was making a specific threat to blow 11:24  
14 everyone's head off? 11:24

15 A. Agreed. 11:24

16 Q. Okay. Now, let's look at the next statement, "Kelley 11:24  
17 on February 11, 2012, they headed to their counseling at 0930 11:25  
18 hours and was pulled over and after he dropped his friends off 11:25  
19 he told her 'You worthless piece of shit. If you have my 11:25  
20 friends ready to go I wouldn't have gotten a ticket' and they 11:25  
21 were still five minutes early to their appointment." 11:25

22 Again, this is another -- this is a very specific -- 11:25  
23 Ms. Kelley's relating, very, very, very specific time sensitive 11:25  
24 detail facts about Devin Kelley, right? 11:25

25 A. Correct. 11:25

1 Q. This is very much not a general, well, he's hurting 11:25  
2 me and beating me. She's giving not only specific times, 11:25  
3 specific locations to verify, but very specific words and 11:25  
4 threats that he is using, right? 11:25

5 A. Yes. 11:25

6 Q. Okay. And if you look a little bit up, and I'm just 11:25  
7 going to highlight this because I'm going back up to it, it 11:25  
8 will make it easier. 11:25

9 (Brief interruption.) 11:25

10 Q. And, sir, I've highlighted another portion of this 11:26  
11 February 17, 2012, statement. "Kelley--meaning Devin Kelley-- 11:26  
12 stated he dragged her by her hair into the bathroom and said, 11:26  
13 'I'm going to water board you' and stuck her head into the 11:26  
14 shower head." Do you see that? 11:26

15 A. Yes, I do. 11:26

16 Q. And I know this is a lot of information, but again I 11:26  
17 want to ask you, this is also another very specific example of 11:26  
18 a very disturbing, dangerous, and violent threat that Devin 11:26  
19 Kelley made, correct? 11:27

20 A. Correct. 11:27

21 Q. And the Air -- the Air Force DAF, the security forces 11:27  
22 49th was aware of this on February 17, 2012, right? 11:27

23 A. Correct. 11:27

24 Q. Okay. Okay. Let me ask you about, you had spoken 11:27  
25 earlier about sort of how the communication would happen 11:27

1 between potentially you -- you're department at LRS and the 11:27  
2 security forces. And I want to show down a little bit farther 11:27  
3 the next entry which states, "Interview of Tessa Kelley on 11:27  
4 February 17, 2012." Do you know where that Building 35, Room 11:27  
5 12 is located? Is that -- do you know where that is? 11:27

6 A. No. 11:27

7 Q. Okay. Now, this is -- this little bit below under 11:28  
8 subject interview actually of Devin Kelley. Do you see that? 11:28

9 A. Yes. 11:28

10 Q. Okay. I'll pull that up to make it a little bit -- 11:28  
11 subject interview of Devin Kelley on February 17, 2012. Do you 11:28  
12 know where -- I think you already told me you don't know who 11:28  
13 Sergeant Sablan or Detective Rupe is, correct? 11:28

14 A. Correct. 11:28

15 Q. Here "Devin Kelley is brought to the 49th Security 11:28  
16 Forces, advised of his rights and asked for an attorney and 11:28  
17 refuses to answer questions." Do you see that? 11:28

18 A. Yes. 11:28

19 Q. And then it states, "Kelley was released to TSergeant 11:28  
20 Schafer/First Sergeant via DD Form 2708." Do you see that? 11:28

21 A. Yes, I do. 11:28

22 Q. "Receipt for Inmate or Detained Person (Exhibit 2)." 11:29  
23 Do you know who TSergeant is/First Sergeant? Do you know who 11:29  
24 that is? 11:29

25 A. TSergeant is technical sergeant. 11:29

1 Q. Okay. 11:29

2 A. Just for reference, he would have been an acting 11:29

3 first sergeant at the time. 11:29

4 Q. Do you know who that is, Schafer? 11:29

5 A. I believe I had met him before. 11:29

6 Q. Okay. 11:29

7 A. But I don't recall the specifics. 11:29

8 Q. Is technical sergeant a sergeant that would have been 11:29

9 within in the 49th LRS command? If you know. 11:29

10 A. I would say I think the answer is yes. 11:29

11 Q. Okay. You've been -- because when Tracy Wolfe's 11:29

12 designation was TSergeant/First Sergeant, I'm going to 11:29

13 represent to you -- 11:29

14 A. Okay. 11:29

15 Q. -- everywhere I've seen her name in the file. Sorry. 11:29

16 His name in the file and so when I saw this and then when we 11:30

17 had this conversation earlier about the communication how it 11:30

18 seems to me the first sergeant is sort of your key connector 11:30

19 when this kind of stuff is happening and they're communicating 11:30

20 with the 49th Security Forces that looked to me like, oh, 11:30

21 that's who -- that's the kind of person that Major Hughes, 11:30

22 maybe McLeod-Hughes is referring to. That when he said I go to 11:30

23 my first sergeant who would then get that information from 11:30

24 security forces, is that who -- is that possibly who TSergeant 11:30

25 Schafer is in this situation? 11:30

1 A. Yes. 11:30

2 Q. I remember you also told me that the TSergeant/First 11:30  
3 Sergeant Wolfe would be the person who was sort of the 11:30  
4 supervisory person for people under your command like Devin 11:30  
5 Kelley who had these kinds of problems. That was the go-to 11:30  
6 person. Remember we had that conversation? 11:30

7 A. He's not a supervisory role, but, yes, he would be 11:31  
8 the person that we would go to. 11:31

9 Q. Okay. And -- and maybe supervisory role is not the 11:31  
10 best thing, but what we know here is in February 17, 2012, 11:31  
11 Kelley was actually released to this T -- Technical 11:31  
12 Sergeant/First Sergeant Schafer, right? That means -- what 11:31  
13 does that mean to you? If you know. 11:31

14 A. It means he was arrested and released to Sergeant 11:31  
15 Schafer until something could -- until further investigation 11:31  
16 occurred. 11:31

17 Q. Okay. Now, does that mean that at that point when a 11:31  
18 person like Devin Kelley is accused of these violent assaults 11:31  
19 and threats and then is released to a particular staff sergeant 11:31  
20 -- I'm sorry -- first sergeant/technical sergeant, does that 11:31  
21 mean that person is under that persons sort of, I don't want to 11:31  
22 say supervision, but they're -- they are not -- they're 11:31  
23 escorted and not -- they're under that person's command? 11:32

24 MS. KRIEGER: Objection. Confusing. 11:32

25 A. I don't know what they mean if they're -- by 11:32

1 released. 11:32

2 BY MR. ALSAFFAR: 11:32

3 Q. It looks like released into their custody to me, but 11:32  
4 I don't want to put words in your mouth. Is that your 11:32  
5 understanding of that relationship? 11:32

6 A. In -- with my understanding, yes. 11:32

7 Q. Okay. 11:32

8 A. I don't know what in -- their definition of released 11:32  
9 might be different than my understanding of the definition. 11:32

10 Q. Sure. No. That's fair. Now, did you ever have an 11:32  
11 instance not just with Devin Kelley, but with anybody in your 11:32  
12 -- who was under your command or under your supervision at 11:32  
13 Holloman Air Force Base who was released into custody of first 11:32  
14 sergeants? 11:32

15 A. Not that I can recall. 11:32

16 Q. Okay. The next page I want to -- and I'll highlight 11:33  
17 that a little bit for you. The next page is just the 11:33  
18 continuation of the final -- finalization of that particular 11:33  
19 interview in February 17, 2012. It says, "That we received 11:33  
20 two photographs, we can see bruises on Tessa's left arm." 11:33

21 The next section is Law Enforcement Records. "On 11:33  
22 February 28, 2012, a check of the Security Forces Management 11:33  
23 Information System was conducted on Kelley." Do you see that? 11:33

24 A. Yes, I do. 11:33

25 Q. Okay. And then it says Exhibits. The following 11:33

1 items are appended to this report. Statement by Tessa Kelley; 11:33  
2 DD Form 2708; and four photographs. 11:33

3 Do you see that? 11:33

4 A. Yes, I do. 11:33

5 Q. And then it says, "Investigative Status closed." Do 11:33  
6 you see that? 11:33

7 A. Yes, I do. 11:33

8 Q. It says David Boyd -- "Reviewed by David Boyd, Major, 11:34  
9 U.S. Air Force Commander." Do you know who that is? 11:34

10 A. Based on the document coming from security forces I 11:34  
11 would presume Major Boyd was the commander of the security 11:34  
12 forces squadron at that time. 11:34

13 Q. Do you know who Major Boyd is? 11:34

14 A. I had -- I'm speculating, but I believe I would have 11:34  
15 met him on the few occasions -- 11:34

16 Q. Okay. 11:34

17 A. -- outside of work. 11:34

18 Q. Now, I'm just showing you back to the page before it 11:34  
19 under -- at the very bottom, other investigative aspects. It's 11:34  
20 talking about the photographs received. Next page it talks 11:34  
21 about the photographs received. Then the law enforcement 11:34  
22 records and the exhibits, and then case closed. All right. So 11:34  
23 re-orienting you. All right. Now -- 11:34

24 A. Okay. 11:34

25 Q. -- nowhere on this report do we see from that day do 11:34

1 we see that Devin Kelley's fingerprints were taken; is that 11:34  
2 fair? 11:34

3 A. Correct. 11:34

4 Q. And you do have both pages in front of you. And 11:35  
5 nowhere on this report does it state anywhere that his 11:35  
6 fingerprints were obviously submitted to the FBI after 11:35  
7 receiving this evidence of assault, correct? 11:35

8 MS. KRIEGER: Objection. The document speaks for 11:35  
9 itself. 11:35

10 BY MR. ALSAFFAR: 11:35

11 Q. You can answer whenever you're ready. 11:35

12 A. No. I do not see reference to that. 11:35

13 Q. Okay. And when you're saying "I don't see reference 11:35  
14 to that," nowhere do you see that the security forces submitted 11:35  
15 Devin Kelley's fingerprints to the FBI on this day, correct? 11:35

16 A. Not on this document, no. 11:35

17 Q. Turning your attention -- you can flip to it as well, 11:35  
18 Exhibit No. 6 but it's also on the screen for you, Page 13351. 11:36

19 A. Okay. I can see that. 11:36

20 Q. And it's May 2, 2012, a Memorandum for Alamogordo 11:36  
21 Municipal Court. Do you see that? 11:36

22 A. Yes, I see that. 11:36

23 Q. And it says it's from 49 AMXS/CCF. Can you tell me 11:36  
24 what that means? 11:36

25 A. AMXS is Aircraft Maintenance Squadron and CCF is the 11:36

1 three character digit used for first sergeant. 11:36

2 Q. Okay. Is the Aircraft Maintenance Squadron is that 11:36

3 where Devin Kelley was officially employed with the Air Force? 11:36

4 If you know. Is that what that means? 11:36

5 A. No, that's not what that means. 11:36

6 Q. Is that where Tracy Wolfe was employed? 11:37

7 A. I -- speculating off of what I interpret reading he 11:37

8 was probably administratively attached to the -- or to that 11:37

9 particular squadron -- 11:37

10 Q. Okay. 11:37

11 A. -- serving as the first sergeant in our -- in the LRS 11:37

12 Squadron. 11:37

13 Q. Okay. And this May 2, 2012, document is signed by 11:37

14 Tracy Wolfe, MSergeant, U.S. Air Force, First Sergeant, 49th 11:37

15 Logistics Readiness Squadron, correct? 11:37

16 A. Correct. 11:37

17 Q. This is the Tracy Wolfe we've been talking about all 11:37

18 day today, correct? Same one? 11:37

19 A. I would say yes. 11:37

20 Q. Was there another Tracy Wolfe that worked with you at 11:37

21 Holloman Air Force Base -- 11:37

22 A. No. 11:37

23 Q. -- that was also a first sergeant? 11:37

24 Okay. Okay. 11:37

25 A. That's a no. 11:37

1 Q. Uh? 11:37

2 A. That is a no. 11:37

3 Q. That's a no. Okay. Thank you. Thank you. 11:37

4 All right. Now, this May 2, 2012, letter about Devin 11:37

5 Kelley, Mr. Wolfe -- I'm sorry, Sergeant Wolfe is saying, "On 11:37

6 April 29, 2012, Devin Kelley was hospitalized at Peak 11:38

7 Behavioral Institute in Santa Rosa, New Mexico. Do you see 11:38

8 that? 11:38

9 A. Yes. 11:38

10 Q. Now you -- do you know what Peak is, Behavioral 11:38

11 Institute is? 11:38

12 A. I have been told it was a mental health facility. 11:38

13 Q. Okay. Who -- who would have told you that? 11:38

14 A. My commander or the first sergeant at the time. 11:38

15 Q. Okay. And -- 11:38

16 A. But it also -- it is generalized common knowledge to 11:38

17 a limited selection of people I believe that that's what that 11:38

18 facility is. 11:38

19 Q. Okay. That was my next question: Would you have 11:38

20 known as well that that was a mental health facility just 11:38

21 because it was near where the base was? 11:38

22 A. Until this incident, no. 11:38

23 Q. Okay. Do you know who Robert Cole is? Colonel 11:39

24 Robert Cole, Mission Support Group Commander? 11:39

25 A. Yes. 11:39

1 Q. Okay. And did I state that correctly? He was 11:39  
2 Mission Support Group Commander? 11:39

3 A. I believe so, yes. 11:39

4 Q. Okay. When you were at Holloman Air Force Base? 11:39

5 A. I did not remember it at the time, but yes. 11:39

6 (Document marked Exhibit No. 7.) 11:39

7 Q. I'm going to show you Exhibit No. 7 and Exhibit No. 11:39  
8 7 is a letter dated May 17, 2012, regarding Devin Kelley, 11:39  
9 Memorandum 4 -- 49 LRS/CC, correct? Am I correct? 11:39

10 A. Correct. 11:39

11 Q. And that -- again, this is memorandum for 49 11:40  
12 Logistics Readiness Squadron and the commander, correct? 11:40

13 A. Correct. 11:40

14 Q. And the commander at the time again on May 17, 2012, 11:40  
15 was Frank Marconi, Lieutenant Colonel and he signed it on May 11:40  
16 17, 2012, as well, correct? 11:40

17 A. Correct. 11:40

18 Q. And it's from Robert Cole, correct? 11:40

19 A. Correct. 11:40

20 Q. All right. And this is -- remember how earlier we 11:40  
21 talked about an October 2011 letter that showed, from the 11:40  
22 Central Registry Board Incident Determination earlier in the 11:40  
23 deposition and we were talking about the Central Registry 11:40  
24 Board? 11:40

25 A. I don't remember the date, but yes, I remember that 11:40

1 one. 11:40

2 Q. Okay. Now, this is another letter. It's now May 17, 11:40

3 2012, stating under Number 1, "The CRB, the Central Registry 11:40

4 Board, met on May 17, 2012 to review incident 20120023 11:40

5 involving Devin Kelley. The allegation was adult physical 11:40

6 maltreatment, emotional maltreatment of Tessa Kelley by Devin 11:40

7 Kelley." Do you see that? 11:40

8 A. Yes, I do. 11:41

9 Q. "And the board determined the incident met the 11:41

10 criteria for adult physical maltreatment, emotional 11:41

11 maltreatment and entry into the DoD Central" -- 11:41

12 That's okay. First time. I appreciate it. I'll 11:41

13 restate it. 11:41

14 "The board determined the incident met the criteria 11:41

15 for adult physical maltreatment, emotional maltreatment and 11:41

16 entry into the DoD Central Registry database." 11:41

17 Did I read that correctly? 11:41

18 A. Yes. 11:41

19 Q. Okay. Remember back in the earlier CRB letter to the 11:41

20 40 -- from the 49th in October 2011, the CRB made the 11:41

21 determination that Devin Kelley met the criteria for child 11:41

22 mistreatment -- maltreatment. Do you remember that 11:41

23 conversation? 11:41

24 A. Yes. 11:41

25 Q. And this one is stating that "In May 17, 2012, the 11:41

1 CRB has also determined that Devin Kelley met the criteria for 11:41  
2 adult physical maltreatment, emotional maltreatment and entry 11:41  
3 into the DoD CR database," correct? 11:41

4 A. Correct. 11:42

5 Q. Okay. So now we have the 49th LRS being notified and 11:42  
6 confirming that the CRB has -- has determined that Devin Kelley 11:42  
7 met both the criteria for child maltreatment and adult 11:42  
8 maltreatment, fair? 11:42

9 A. Fair. 11:42

10 Q. All right. And again just like earlier with the 11:42  
11 child maltreatment we have the CRB having -- informing the 49th 11:42  
12 LRS that there's reasonable grounds to believe that Devin 11:42  
13 Kelley has engaged in adult physical maltreatment, fair? 11:42

14 A. Yes. 11:42

15 (Document marked Exhibit No. 8.) 11:42

16 Q. Okay. Now, let's look -- not quite yet. I want to 11:42  
17 show you -- thank you. I'm going to show you Exhibit No. 8. 11:43  
18 Sir, have you ever seen this before? 11:43

19 A. No. 11:43

20 Q. Okay. So this is a document that was found -- well, 11:43  
21 it was provided to us from the 49th file, at least I guess the 11:43  
22 security forces file and also from the AFOSI file from Holloman 11:43  
23 Air Force Base. And why don't you just look at it real quick. 11:43  
24 Look it over. It's only one page and then we'll talk about for 11:43  
25 a sec. 11:43

1 A. Okay. I've completed it. 11:44

2 Q. Okay. Now, this is dated June 7, 2012, and this is 11:44  
3 from Xavier Alvarez, Director of Military Affairs. Now, do you 11:44  
4 remember just a few minutes ago we were talking about Devin 11:44  
5 Kelley's entry into Peak Behavioral Medical -- Mental 11:45  
6 Institution? 11:45

7 A. Yes. 11:45

8 Q. Okay. And this document is from the director of 11:45  
9 military affairs is documenting his escape from Peak 11:45  
10 Behavioral, correct? 11:45

11 A. Correct. 11:45

12 Q. And the -- what we also learn from this document is 11:45  
13 that while he was in the mental institution the -- they learn 11:45  
14 after doing a computer audit that computer results -- I'm 11:45  
15 quoting now -- "Computer results showed that Devin Kelley had 11:45  
16 been searching for weapons, body armor, transport to San 11:45  
17 Antonio and lodging while he was at the mental institution," 11:45  
18 correct? 11:45

19 A. Correct. 11:45

20 Q. All right. Now that's alarming, right? 11:45

21 A. Yes. 11:45

22 Q. Okay. And were you ever informed as one of Devin 11:46  
23 Kelley's supervisors at the 49th LRS that he was looking for 11:46  
24 weapons and body armor while he was in a mental institution? 11:46

25 A. No. 11:46

1 MS. KRIEGER: Objection. Assumes facts not in 11:46  
2 evidence. 11:46

3 BY MR. ALSAFFAR: 11:46

4 Q. Now you see there a little below -- let me highlight 11:46  
5 it for you, because it's a massive paragraph. This letter also 11:46  
6 states that, "Throughout this -- this process MSergeant Wolf 11:46  
7 and Major Nordin were in constant communication with Director 11:46  
8 Alvarez." Do you see that? 11:46

9 A. Yes, I do. 11:46

10 Q. Okay. Did Sergeant Wolfe ever talk to you or 11:46  
11 communicate to you or document for you that this was going on 11:46  
12 with Devin Kelley at this time? 11:47

13 A. I remember a conversation with somebody letting me 11:47  
14 know that the member had attempted to escape, was caught at the 11:47  
15 bus stop -- bus station. But the specific details in here not 11:47  
16 all -- I was not all aware of. 11:47

17 Q. Okay. Now do you know that Devin Kelley had body 11:47  
18 armor on his person when he killed those 26 people in the 11:47  
19 Sutherland Springs Church? 11:47

20 A. No, I did not. 11:47

21 Q. I think you said, and I think you agree, that it was 11:47  
22 alarming that someone like Devin Kelley who's in a mental 11:47  
23 institution was searching for weapons and body armor. Do you 11:47  
24 remember that? 11:47

25 MS. KRIEGER: Objection. Misstates -- 11:47

1 BY MR. ALSAFFAR: 11:47

2 Q. That that's alarming? 11:47

3 MS. KRIEGER: -- previous testimony. 11:47

4 A. Yes. 11:47

5 BY MR. ALSAFFAR: 11:47

6 Q. Why do you think that's alarming? 11:48

7 A. It seems like he would be considering dangerous 11:48

8 actions. 11:48

9 Q. With a -- with weapons, correct? 11:48

10 A. Correct. 11:48

11 Q. And dangerous actions where he wants to protect 11:48

12 himself from bullets? 11:48

13 A. Protect himself from something, yes. 11:48

14 Q. That's what body armor is for, right? 11:48

15 A. Could be, yes. 11:48

16 Q. And now in 2012, when this report was coming in when 11:48

17 your first sergeant was being made aware of his search for 11:48

18 weapons and body armor while he was in a mental hospital 2012, 11:48

19 I mean, it was well-known throughout the country we had a lot 11:48

20 of mass shootings by then -- even by then, right? 11:48

21 A. I don't remember specifics. 11:48

22 Q. Oh. I know that. I mean, in fact, it's almost hard 11:48

23 to remember specifics about mass shootings because they 11:48

24 happened so much. Unfortunately that's the state of affairs. 11:48

25 A. I would agree to that statement. 11:48

1 Q. Yeah. And there had been a lot of mass shootings on 11:48  
2 bases recently and back then: The Fort Hood shooting; the Navy 11:48  
3 spring shooting recently; the Pensacola shooting, the shooting 11:49  
4 in the recruitment offices. Remember those? 11:49

5 A. Yes. 11:49

6 Q. All happened not only on bases but in this timeframe 11:49  
7 there were mass shootings happening all over America: Movie 11:49  
8 theaters, parks, schools, right? 11:49

9 A. I don't know timeframes of those particular 11:49  
10 instances, but I do remember -- 11:49

11 Q. Yeah. 11:49

12 A. -- instances happening. 11:49

13 Q. Okay. And in those instances when all these mass 11:49  
14 shootings were happening in the past back then and currently, a 11:49  
15 lot of those times the person committing the mass shootings had 11:49  
16 body armor on? Do you have a memory of that? 11:49

17 A. No, I don't have a memory of that. 11:49

18 Q. Okay. You just don't -- didn't -- don't know either 11:49  
19 way? It's okay if you don't. I'm just saying body armor is 11:49  
20 something that's commonly used in mass shootings by the 11:49  
21 perpetrators, fair? 11:49

22 A. I don't know. 11:49

23 Q. Okay. If you as the supervisor of Devin Kelley were 11:49  
24 told at this time, and I think eventually at some point very 11:49  
25 soon after this you were, that Devin Kelley was searching for 11:49

1 weapons while he was in the institution and was also looking 11:50  
2 for body armor would you have been concerned or reasonably 11:50  
3 concerned that maybe he was going to do something like a mass 11:50  
4 type shooting? 11:50

5 MS. KRIEGER: Objection to form. Assumes facts not 11:50  
6 in evidence. Calls for speculation. 11:50

7 A. I would be concerned that that would be something he 11:50  
8 would want to do. 11:50

9 BY MR. ALSAFFAR: 11:50

10 Q. That's what I meant. Okay. 11:50

11 Let me show you -- let me mark this as an exhibit. 11:50  
12 Actually, it's in here. Let me pull it to your attention. if 11:50  
13 you would look at Exhibit No. 6 and I'll also pull it up here. 11:50  
14 We don't need to double mark it. It's right around here, 11:50  
15 13374. The following day. So part of Exhibit 6 we're looking 11:51  
16 at Page 13374. The following day, the day after this June 7th 11:51  
17 letter that we just showed you, Exhibit No. 8, you penned and 11:51  
18 you signed, sent out -- that's okay -- this memorandum dated 11:51  
19 June 8, 2012; is that correct? 11:51

20 A. Correct. 11:51

21 Q. All right. I want to talk about this memorandum. 11:51  
22 It's regarding Devin Kelley, correct? 11:51

23 A. Correct. 11:51

24 Q. That's your signature on Page 13376, correct? 11:51

25 A. Yes. It looks like my signature. 11:51

1 Q. Okay. And at this time, so again we've got another 11:52  
2 time specific June 8, 2012, so the day after he escaped the 11:52  
3 mental institution we know that you were at least at the time 11:52  
4 the commander of 49th LRS at Holloman Air Force Base, correct? 11:52

5 A. Correct. 11:52

6 Q. All right. And this is a memorandum for -- let's 11:52  
7 talk about who this was sent to. This was sent to -- when it 11:52  
8 says Memorandum 4 that means it was sent to these particular 11:52  
9 places; is that fair? 11:52

10 A. Yes. 11:52

11 Q. Okay. I didn't want to put words in your mouth. 11:52  
12 It says Memorandum for 49 WG/JA. Can you tell us 11:52  
13 what that is? 11:52

14 A. That would be the judge advocate office. 11:52

15 Q. Okay. So your -- the next one 49WC/CC. Can you tell 11:52  
16 me what that is? 11:52

17 A. The wing commander. 11:52

18 Q. And then PCRO? 11:52

19 A. Don't know what that means. 11:52

20 Q. In Turn? 11:52

21 A. In Turn usually it would go to sequential listing. 11:52  
22 So it would go to the judge advocate office first, then to the 11:52  
23 commander, then to PCR. 11:52

24 Q. Go it. So -- so -- 11:53

25 A. PCR might be Peak Correctional something office. 11:53

1 Q. Okay. And the first statement you say, "In 11:53

2 accordance with RCM 305, I approve the continued pretrial 11:53

3 confinement of Devin Kelley, 49 Logistics Readiness Squadron." 11:53

4 Do you see that? 11:53

5 A. Yes, I do. 11:53

6 Q. So we know at this point that Devin Kelley's in 11:53

7 confinement? He's in some kind of jail facility, right? 11:53

8 A. He's in some sort of facility. 11:53

9 Q. He's being protected from the public at this point, 11:53

10 correct? 11:53

11 A. Correct. 11:53

12 Q. He's under arrest, correct? 11:53

13 A. Correct. 11:53

14 Q. Okay. And if you look down, a little bit down to the 11:53

15 bottom of the first page, second. Do you see that? I'm 11:53

16 highlighting it for you. 11:53

17 A. Yes. 11:53

18 Q. It says Second I -- "Second, I have reasonable 11:53

19 grounds to believe continued pretrial confinement is necessary 11:53

20 because it is foreseeable that the confinee will not appear at 11:54

21 trial, and/or will engage in serious criminal misconduct if 11:54

22 confinement is not continued." Do you see that? 11:54

23 A. Yes, I do. 11:54

24 Q. So at this point you're saying you have reasonable 11:54

25 grounds to believe that Devin Kelley is a very specific threat 11:54

1 and danger to the public at large, right? 11:54

2 A. Yes. 11:54

3 Q. And it's not just limited to Devin Kelley is a danger 11:54  
4 to one specific person. You are stating that you have probable 11:54  
5 cause to believe he is a specific danger to the general public? 11:54

6 MS. KRIEGER: Objection. Misstates evidence. 11:54

7 BY MR. ALSAFFER; 11:54

8 Q. Well, let me restate it. At this point in time -- 11:54  
9 I'm asking you as the commander of the 49th LRS, June 8, 2012, 11:54  
10 you believe there was reasonable grounds to believe that Devin 11:54  
11 Kelley was specifically dangerous to the public and that's why 11:54  
12 he needed to stay in confinement? 11:54

13 A. Yes. 11:54

14 Q. Okay. And you had reasonable grounds to believe that 11:55  
15 he had committed assaults on his wife and by this time you knew 11:55  
16 child as well? 11:55

17 A. Yes. 11:55

18 Q. Okay. And you had reasonable grounds to believe that 11:55  
19 he has committed specific threats not only to his wife and his 11:55  
20 child, but also to other people on the Air Force base including 11:55  
21 supervisors of his on the Air Force base? 11:55

22 A. Yes. 11:55

23 MS. KRIEGER: Objection. Misstates prior testimony. 11:55

24 BY MR. ALSAFFAR: 11:55

25 Q. Go ahead. I'm asking you what you believe -- 11:55

1 A. Yes. 11:55

2 Q. -- June 8th -- 11:55

3 Okay. So my statement was correct, right? 11:55

4 A. Yes. 11:55

5 Q. Okay. And for that reason, because Devin Kelley was 11:55

6 a specific threat to the public, you believed he -- and ordered 11:55

7 that he remain in confinement, right? 11:55

8 A. Yes. 11:55

9 Q. Okay. Let's go a little bit further down where you 11:55

10 start discussing those specific reasons, and I know we outlined 11:55

11 some of those just now and I want to go through them 11:55

12 specifically. Paragraph 4 continuing on to the next page. You 11:56

13 state that, "Specific reason for supporting my conclusion." 11:56

14 And then you list them. "In June 2011, the member's--you're 11:56

15 referring to Devin Kelley--11 month-old stepchild was taken to 11:56

16 the ER because he had been vomiting and had previously had a 11:56

17 seizure. The child was observed with a bruise to the cheek and 11:56

18 ear. Further x-rays revealed a broken clavicle and subdural 11:56

19 hematoma. Medical professionals also later discovered an older 11:56

20 hematoma that had healed and medical professionals notified 11:56

21 authorities of suspected child abuse." Do you see that? 11:56

22 A. Yes. 11:56

23 Q. Okay. And you go on to describe the rest of the 11:56

24 paragraph as well. Some of the incidence that Tessa Kelley had 11:56

25 reported and some of these we went over in the prior statement 11:56

1 from the 49th Security Forces. Do you remember that? 11:56

2 A. Yes. 11:56

3 Q. Okay. And I won't go through all of them, but I want 11:57

4 to highlight a couple because it's in your letter. You state 11:57

5 on April 23, 2012 -- you state that: "On April 23, 2012, while 11:57

6 driving to El Paso, Texas, to pick up a family member from the 11:57

7 airport, A1C Kelley took his gun out of his holster and held it 11:57

8 against her temple, stating, 'you want to die.' Tessa Kelley 11:57

9 pushed the gun away and then he placed it in his mouth." Do 11:58

10 you know see that? 11:58

11 A. Yes. 11:58

12 Q. Now, do you know where this information came from 11:58

13 that you put into this letter? 11:58

14 A. No. 11:58

15 Q. Okay. Would you have put this in this letter unless 11:58

16 -- unless you believed it to be correct and accurate? 11:58

17 A. I believe it wouldn't be in this letter if it wasn't 11:58

18 accurate. 11:58

19 Q. All right. So a better way of saying it is you're 11:58

20 only putting information in this memorandum that you believe 11:58

21 was true and accurate? 11:58

22 A. Again, I didn't draft the memo, but the information 11:58

23 would have been put in there only if it was accurate. 11:58

24 Q. All right. And you wouldn't have signed it unless it 11:58

25 was accurate in your view? 11:58

1 A. Correct. 11:58

2 Q. Okay. A little further down you state then on April 11:58

3 27th. Do you see that line? 11:58

4 A. Yes. 11:58

5 Q. I'm highlighting it for you. "Then on April 27, 11:58

6 2012, A1C Kelley confessed in a self-made video to the assault 11:59

7 that occurred regarding his stepchild and gave away some of his 11:59

8 possessions." So by this time at least you're stating that you 11:59

9 are now aware of the confession video made on April 27, 2012, 11:59

10 that Devin Kelley made admitting that he abused his child, 11:59

11 correct? 11:59

12 A. Yes. 11:59

13 Q. And of course by this time you -- you definitely know 11:59

14 on July -- June 8, 2012, had probable cause to believe that he 11:59

15 committed all these offenses outlined in your letter? 11:59

16 A. Yes. 11:59

17 MS. KRIEGER: Objection. Calls for a legal opinion. 11:59

18 BY MR. ALSAFFAR: 11:59

19 Q. And then when you outlined all of these offenses that 11:59

20 you had probable cause to believe he committed including -- 11:59

21 those offense would include several types of felony assaults on 11:59

22 his wife and his child, right? Am I being fair when I say 11:59

23 that? 11:59

24 A. That he would do more or -- 11:59

25 Q. Let me -- let me -- that's a perfect example. Let me 11:59

1 rephrase that. 11:59

2 That the -- you were outlining in this June 8, 2012, 12:00

3 acts that you reasonably believed Devin Kelley committed, 12:00

4 correct? 12:00

5 A. Correct. 12:00

6 Q. And those acts included felony assaults on his wife 12:00

7 and felony assaults on his child -- 12:00

8 MS. KRIEGER: Objection. 12:00

9 BY MR. ALSAFFAR: 12:00

10 Q. -- correct? 12:00

11 MS. KRIEGER: Calls for a legal conclusion. 12:00

12 BY MR. ALSAFFAR: 12:00

13 Q. Is that right? 12:00

14 A. I don't know. I honestly don't know they were felony 12:00

15 assaults, but yes. 12:00

16 Q. Okay. The acts of assaulting his child and 12:00

17 assaulting his wife with both physical assault and a deadly 12:00

18 weapon, guns, you had reason to believe that he committed those 12:00

19 acts that's why you put them in this memorandum, true? 12:00

20 A. Yes. 12:00

21 Q. And that's why you recommended -- you had reasonable 12:00

22 belief that he committed those assaults because that's why you 12:00

23 recommended he be detained in his confinement facility, right? 12:00

24 MS. KRIEGER: Objection to form. 12:00

25 A. Just to clarify, I was not the one who drafted the 12:00

1 letter, but, yes, signing it says -- yes. 12:01

2 BY MR. ALSAFFAR: 12:01

3 Q. By signing this letter that you were -- you were 12:01

4 agreeing that you had a reasonable -- reason to believe that 12:01

5 these assaults as you -- as are described in the letter 12:01

6 happened and that supported the need for him to remain in a 12:01

7 confinement facility, correct? 12:01

8 A. Yes. 12:01

9 Q. Okay. Now, I know -- we talked about this earlier, 12:01

10 but since we're specifically on this, at this point in time 12:01

11 when you had a reason to believe these assaults had been 12:01

12 committed by Devin Kelley and you signed this letter on June 8, 12:01

13 2012, you didn't specifically check or make sure that Devin 12:01

14 Kelley's fingerprints were collected or submitted to the FBI, 12:01

15 fair? 12:01

16 A. I'm not involved in the process on that, but no. 12:01

17 Q. Okay. So I know that you -- you're saying I'm not 12:01

18 involved in that process and that's fine, but I want to get 12:01

19 clear that at this time, this specific day June 8, 2012, when 12:02

20 you as the commander for the 49th LRS had reason to believe -- 12:02

21 had a reasonable basis to determine that Devin Kelley committed 12:02

22 these acts that are described in this letter, you did not 12:02

23 either ensure, check, or confirm that Devin Kelley's 12:02

24 fingerprints were either collected or submitted to the FBI. Is 12:02

25 that fair to say? 12:02

1 A. Yes. 12:02

2 Q. Okay. And you also did not ask anyone or order 12:02  
3 anyone underneath your chain of command to ensure that Devin 12:02  
4 Kelley's fingerprints were either collected or submitted to the 12:02  
5 FBI at this point June 8, 2012; is that correct? 12:02

6 A. Correct. 12:02

7 Q. Okay. All right. Let's look at number -- scroll 12:02  
8 down a little bit in your letter to Number 5. Five -- 12:03  
9 Paragraph 5 you state -- or the letter states that you signed, 12:03  
10 "Furthermore, investigation revealed that while receiving 12:03  
11 inpatient mental health care, the member made several 12:03  
12 threatening statements that if he were picked up by security 12:03  
13 forces that he would go for their guns." Do you see that? 12:03

14 A. Yes. 12:03

15 Q. All right. So we saw the letter from June 7th from 12:03  
16 the facility, specifically commenting that he was looking for 12:03  
17 weapons and body armor that Sergeant Wolfe was aware of. We 12:03  
18 see this memorandum that you signed this next day stating that 12:03  
19 you also learned that Devin Kelley made several threatening 12:03  
20 statements about what -- about going for security forces if 12:03  
21 they came to get him, correct? 12:03

22 A. Correct. 12:03

23 Q. It was another instance in which Devin Kelley is 12:03  
24 making threats, dangerous threats about guns, correct? 12:03

25 A. Correct. 12:03

1 Q. All right. Now, going a little bit further down. On 12:04  
2 June 7th -- so that's the same day he escaped the mental 12:04  
3 facility -- "Kelley contacted the Holloman Air Force Base 12:04  
4 Exchange and entered into an agreement to purchase a 9mm 12:04  
5 handgun." Do you see that? 12:04

6 A. Yes. 12:04

7 Q. So what we know -- what you knew in June 8, 2012, 12:04  
8 what the LRS knew as well and soon after the 49th Wing Command 12:04  
9 as well and the 49th Judge Advocate knew at this time soon 12:04  
10 after was that Devin Kelley had escaped the mental institution, 12:04  
11 is looking for guns at the mental institution, was looking for 12:04  
12 body armor at the mental institution, had made specific threats 12:04  
13 to security forces that he would go for their guns and was also 12:04  
14 specifically trying to purchase -- not only trying to purchase 12:04  
15 a gun but had made an agreement to purchase a 9mm handgun on 12:04  
16 June 7, 2012, right? 12:04

17 MS. KRIEGER: Objection to form. 12:04

18 A. Yes. 12:04

19 BY MR. ALSAFFAR: 12:04

20 Q. Everything I just said was accurate; wasn't it? 12:05

21 A. Yes. 12:05

22 Q. Okay. That is in June 8, 2012, not only did you know 12:05  
23 that you had in Devin Kelley a very dangerous person to the 12:05  
24 public, but somebody who was planning, threatening, and looking 12:05  
25 to accomplish some kind of violent event. Is that fair to say? 12:05

1 MS. KRIEGER: Objection to form. 12:05

2 A. Yes. 12:05

3 BY MR. ALSAFFAR: 12:05

4 Q. Okay. Now that's the kind of person -- would you 12:05  
5 agree with this, I don't want to put words in your mouth, but 12:05  
6 that's the kind of person that poses a threat to the public at 12:05  
7 large; isn't it? 12:05

8 A. Yes. 12:05

9 Q. And we knew that about Devin Kelley certainly by June 12:05  
10 8, 2012, when you signed this letter, true? 12:05

11 A. Yes. 12:05

12 Q. And that's why you wanted him in a facility confined 12:05  
13 so he couldn't hurt anybody because he was a reasonable threat 12:05  
14 to hurt people; wasn't he? 12:05

15 A. Yes. 12:05

16 Q. Okay. And so in addition to knowing that he was in a 12:05  
17 mental facility, so we're talking June 8, 2012, 49th Air Force 12:05  
18 Wing, 49th Security Forces Wing and 49th LRS, as well as the 12:06  
19 49th JAG knew that he was in a mental health facility, he was 12:06  
20 searching for guns while in the facility, he tried to -- he did 12:06  
21 escape the mental health facility. He had threatened to use 12:06  
22 guns against security forces, he had searched for guns, and 12:06  
23 actually gotten an agreement to purchase a gun while in the 12:06  
24 mental health facility and also was looking for body armor. 12:06

25 And had also they knew by now that his, according to 12:06

1 his wife he'd also threatened to kill people under -- at his 12:06  
2 workplace, blowing everyone's head off. We know all that now 12:06  
3 by June 8, 2012, about Devin Kelley, correct? 12:06

4 MS. KRIEGER: Objection. 12:06

5 A. Yes. 12:06

6 BY MR. ALSAFFAR: 12:06

7 Q. That is a person we don't want to have guns; fair to 12:06  
8 say? 12:06

9 MS. KRIEGER: Objection. 12:06

10 BY MR. ALSAFFAR: 12:06

11 Q. Is that a person you would be worried about having 12:06  
12 guns? 12:06

13 A. Yes. 12:06

14 Q. In fact, that's a person that shouldn't have guns, 12:07  
15 right? Would you agree with that? 12:07

16 A. Yes. 12:07

17 Q. Okay. Anything that your outfit did at that point -- 12:07  
18 and when I say "your outfit" I mean the LRS. June 8th -- June 12:07  
19 8, 2012, when you signed this memorandum to keep him confined 12:07  
20 was there anything your outfit did to either determine whether 12:07  
21 Devin Kelley had weapons and if he did what should be done to 12:07  
22 get those weapons out of his hands? 12:07

23 A. I am not aware. 12:07

24 Q. Okay. So you personally didn't do anything as 12:07  
25 commander to ensure that, right? 12:07

1 A. No. 12:07

2 Q. And you didn't personally ask anybody to do that 12:07  
3 either? 12:07

4 A. No. 12:07

5 Q. Okay. Now, do you agree that when government 12:07  
6 agencies fail to share information on dangerous felons they 12:07  
7 unnecessarily expose the public to an increased risk of gun 12:08  
8 violence? 12:08

9 MS. KRIEGER: Objection. Relevance. 12:08

10 BY MR. ALSAFFAR: 12:08

11 Q. You can answer. 12:08

12 A. I can -- yes. 12:08

13 Q. And we -- would you agree that we do also decrease 12:08  
14 the risk of harm to the public by making it harder for 12:08  
15 criminals to get guns? 12:08

16 MS. KRIEGER: Objection. Relevance. 12:08

17 A. Yes. 12:08

18 BY MR. ALSAFFAR: 12:08

19 Q. Do you agree also by that logic, do you agree that 12:08  
20 when dangerous criminals, criminals who have been convicted of 12:08  
21 felonies do get access to weapons that they're not supposed to 12:08  
22 get access to that increases the risk of harm to the general 12:09  
23 public? 12:09

24 MS. KRIEGER: Objection to the form and relevance. 12:09

25 A. Yes. 12:09

1 BY MR. ALSAFFAR: 12:09

2 Q. Now, you know eventually Devin Kelley was convicted 12:09

3 of felonies, correct? 12:09

4 A. No. Not for sure. 12:09

5 Q. Okay. You don't know that he pled guilty to -- 12:09

6 A. Other than -- I mean, I read it in the documents 12:09

7 provided -- 12:09

8 Q. Okay. 12:09

9 A. -- but I wasn't -- 12:09

10 Q. We'll -- we'll -- 12:09

11 A. -- involved in the case. 12:09

12 Q. -- talk about that specifically, but let's -- can -- 12:09

13 just assume for me that Devin Kelley, and I'll show you the 12:09

14 documentation of it. In fact, let's just go -- let's just 12:09

15 before I ask you the next question I'm going to show you that 12:09

16 document and then we can move on. 12:09

17 Let's talk about the letter a little bit more. Now, 12:09

18 in Paragraph 5, the middle of the paragraph it states, "Later 12:09

19 that same night, June 7, 2012, Kelley climbed a fence and left 12:09

20 the mental health facility without authorization." Say that -- 12:09

21 see that? 12:09

22 A. Yes, I do. 12:09

23 Q. All right. So he was not allowed to leave the mental 12:09

24 health facility. He did that without authorization, correct? 12:10

25 A. Correct. 12:10

1 Q. All right. And let's go down to Number 6, and I'll 12:10  
2 move that up for you. You state the -- Paragraph 6 you state 12:10  
3 -- this letter states that you signed and authorized, states, 12:10  
4 "The course of conduct by A1C Kelley leads me to conclude that 12:10  
5 he will continue to engage in serous criminal conduct if not 12:10  
6 confined." Do you see that? 12:10

7 A. Yes. 12:10

8 Q. So what you're -- is it fair to say that what you're 12:10  
9 stating here is that if we let this guy loose, we let this guy 12:10  
10 out, Devin Kelley out he will engage in serious criminal 12:10  
11 misconduct? 12:11

12 MS. KRIEGER: Objection. The document speaks for 12:11  
13 itself. 12:11

14 BY MR. ALSAFFAR: 12:11

15 Q. Is that what you're saying -- telling us in this 12:11  
16 document? 12:11

17 A. Yes. 12:11

18 Q. And is -- one of those things include that at this 12:11  
19 time you knew as the commander of 49 LRS that Devin Kelley was 12:11  
20 a dangerous person who could possibly engage in criminal 12:11  
21 conduct that could hurt or kill people? That was a concern of 12:11  
22 yours? 12:11

23 A. Yes. 12:11

24 Q. Okay. And it wasn't just serious criminal conduct 12:11  
25 like stealing a car, you were talking about criminal conduct 12:11

1 about violence against other people in the public? That's what 12:11  
2 you were concerned about in Paragraph 6 with Devin Kelley? 12:11

3 A. Yes. 12:11

4 Q. All right. And you go on to explain why you believe 12:11  
5 that. You state: Devin Kelley -- when you say "he" that means 12:11  
6 Devin Kelly, correct? 12:11

7 A. Correct. 12:11

8 Q. You say, "He pointed a gun at his wife and then 12:11  
9 himself; carried a weapon openly on his person; confessed to 12:11  
10 injuring his stepchild, and then fled the area by driving to 12:11  
11 San Antonio, Texas. But for the intervention by his father, 12:11  
12 I'm convinced that he would have been AWOL and would not have 12:11  
13 returned on his own accord to Holloman Air Force Base. After 12:11  
14 learning that he might be released from the mental health 12:11  
15 facility, he deliberately planned to obtain another gun (the 12:11  
16 other gun having been taken away from him) and body armor after 12:11  
17 making threats to kill his wife and threats to try to take away 12:11  
18 the guns from any security forces members." 12:11

19 All of that I just read, all those statements you 12:11  
20 made about Devin Kelley you believed to be true and accurate at 12:12  
21 the time you signed this letter, correct? 12:12

22 A. Correct. 12:12

23 Q. You would not have signed this letter unless you 12:12  
24 thought it was true and accurate about him, correct? 12:12

25 A. Correct. 12:12

1 Q. All right. Next you state on the next page, "I am 12:12  
2 convinced that he is dangerous and likely to harm someone if 12:12  
3 released." So at this point June 8, 2012, not only were you 12:12  
4 concerned, but you were actually convinced that Devin Kelley 12:13  
5 was both dangerous and likely, is the term you used, not 12:13  
6 possibly, but likely to harm someone if he was let loose in the 12:13  
7 general public." Is that fair to say? 12:13

8 A. Yes. 12:13

9 Q. Okay. And you believe that was true to this day, 12:13  
10 right? 12:13

11 A. Yes. 12:13

12 Q. Okay. And let's look down a little further. You 12:13  
13 state, "Furthermore, when he was informed that he might be 12:13  
14 released from the mental health facility and placed into 12:13  
15 pretrial confinement or other restrictions, he escaped from the 12:13  
16 mental health facility by jumping a fence late at night after 12:13  
17 making arrangements to purchase a handgun." You agree with 12:13  
18 that statement, correct? 12:13

19 A. Correct. 12:13

20 Q. So Devin Kelley at this point in time--so this would 12:13  
21 have been June 7, 2012--tried to escape the mental health 12:14  
22 facility, right? 12:14

23 A. Correct. 12:14

24 Q. That's not -- you're not describing a voluntary 12:14  
25 walkout because I'm free of my own will to leave this place. 12:14

1 He escaped by trying to jump -- by actually jumping a fence at 12:14  
2 the mental health facility against orders, correct? 12:14

3 A. Correct. 12:14

4 Q. Okay. All right. And you attached to this document, 12:14  
5 this June 8, 2012, a confinement order, right? And that's the 12:14  
6 confinement order we've been talking about earlier and that's 12:14  
7 your signature in the middle there; is that right? 12:14

8 A. Yes, I believe that's my signature. 12:14

9 Q. And that's dated June 8, 2012? 12:14

10 A. Correct. 12:14

11 Q. Al right. Now, when you signed this confinement 12:14  
12 order where -- and this letter where would that have gone? 12:14

13 Where would you have sent that to ensure that it was followed? 12:15

14 A. The first sergeant would have brought it in, I would 12:15  
15 have signed it, and then it handed back to him or her. 12:15

16 Q. Okay. And if that first sergeant, let's assume that 12:15  
17 was Tracy Wolfe or somebody in that first sergeant position, 12:15  
18 that's what we're talking about when we say first sergeant, 12:15  
19 correct? 12:15

20 A. Correct. 12:15

21 Q. Okay. So you would have provided both this letter 12:15  
22 and the confinement order along with the attachments you 12:15  
23 reference in the letter to the first sergeant in your detail, 12:15  
24 correct? 12:15

25 A. Correct. 12:15

1 Q. And then that person would have done what with this? 12:15

2 A. I'm not entirely sure. 12:15

3 Q. I mean, like would -- I mean, this is a serious 12:15  
4 document. Fair to say serious document? 12:15

5 A. Yes. 12:15

6 Q. I mean, you are telling -- you are putting a detailed 12:15  
7 memorandum together and sending it to three different command 12:15  
8 levels and telling them that we have a very dangerous person 12:15  
9 that if is let out of confinement facility will likely comment 12:15  
10 serious violence on the public. That's about as serious a 12:16  
11 document as you can get, correct? 12:16

12 A. Speculation, but yes. 12:16

13 Q. I mean, do you think it's a serious document? 12:16

14 A. Yes, I think it's a serious document. 12:16

15 Q. I'm not asking you to speculate. I'm asking what you 12:16  
16 think. Very serious document; isn't it? 12:16

17 A. Yes. 12:16

18 Q. You are -- you are documenting in a -- in a file 12:16  
19 about an airman under your command that I -- I have facts that 12:16  
20 lead me to believe, certainly reasonable grounds to believe 12:16  
21 that we have a person who is capable and likely to commit 12:16  
22 serious, violent felonies if we don't put him in a prison cell, 12:16  
23 right? That's what you're saying about Devin Kelley on June 8, 12:16  
24 2012, right? 12:16

25 A. Yes. 12:16

1 Q. And you attach a confinement order ensuring that that 12:16  
2 happens, right? 12:16

3 A. Yes. 12:16

4 Q. And so what did you do to ensure that that -- that 12:16  
5 order was put somewhere where it would be -- it would 12:16  
6 definitely be followed and that what did you do to follow up to 12:16  
7 make sure that was done? 12:16

8 A. I did not do any follow up. 12:16

9 Q. Okay. Why is that? 12:17

10 A. I don't know. 12:17

11 Q. I mean, you were -- I can tell from -- I mean, is it 12:17  
12 fair for me to say that from reading this document that we can 12:17  
13 tell you were very, very concerned about this very dangerous 12:17  
14 person? 12:17

15 A. Correct. 12:17

16 Q. All right. Can you -- so why do you think -- I mean, 12:17  
17 you're the only one that can tell us this, why do you think 12:17  
18 that you did nothing to follow up to ensure that Mr. Kelley was 12:17  
19 in fact confined and kept out to of the -- kept away from the 12:17  
20 public? 12:17

21 A. I don't have an answer for you. 12:17

22 Q. Have you thought about that in the years since to -- 12:17

23 A. No. 12:17

24 Q. Okay. Haven't thought about it. Has anybody asked 12:17  
25 you within your command or supervisory above investigating this 12:17

1 event or anything like that, hey, you know, tell me what you 12:17  
2 did to ensure that Devin Kelley was being monitored, was -- 12:17  
3 fingerprints were being submitted, was being put into 12:17  
4 confinement, make sure this dangerous person was not let loose? 12:17  
5 Did no one ask you about that? 12:17

6 A. No. 12:17

7 Q. Am I the first person other than the U.S. Attorneys 12:18  
8 ask you about this? 12:18

9 A. Yes. 12:18

10 Q. Okay. As we sit here today, Mr. Alsaffar is the 12:18  
11 first person who has actually inquired what you did to follow 12:18  
12 up that this dangerous person was actually being kept away from 12:18  
13 the public? 12:18

14 A. Yes. 12:18

15 Q. Okay. All right. Let's look at -- 12:18

16 MS. KRIEGER: We've been going for like an hour and a 12:18  
17 half I think. 12:18

18 MR. ALSAFFAR: Oh. Have we? 12:18

19 MS. KRIEGER: Do you want to -- 12:18

20 MR. ALSAFFAR: I am fine. But -- 12:18

21 MS. KRIEGER: I don't know how close you are. 12:18

22 MR. ALSAFFAR: I am fine -- I am not -- I don't think 12:18  
23 I'm terribly far away because I think we're getting towards the 12:18  
24 end of what Major Hughes was involved, but I also don't want to 12:18  
25 put any kind of unreasonable strain on anybody. So it's up to 12:18

1 you all. I'm like -- I always joke that in your -- and you're 12:18  
2 probably like this because you're in the military you know this 12:18  
3 more than I do, I am not at your level. But we're like kind of 12:18  
4 surgeons we can go for 12 hours talking, which is not a skill 12:18  
5 most people appreciate or like. But we understand that not 12:18  
6 everyone is like that. You all may need a break. 12:18

7 So if you all want to take a little break that's 12:18  
8 fine. If you want to take a lunch break that's fine. 12:19

9 MS. KRIEGER: Well, I -- 12:19

10 MR. ALSAFFAR: It's your choices. 12:19

11 MS. KRIEGER: Do you need a break? 12:19

12 THE WITNESS: I'm getting to the point that I'd like 12:19  
13 lunch. 12:19

14 MR. ALSAFFAR: Okay. 12:19

15 MS. KRIEGER: Well, this is -- before we do a lunch 12:19  
16 break -- 12:19

17 MR. ALSAFFAR: Yeah. 12:19

18 MS. KRIEGER: -- how much longer do you think you 12:19  
19 will need? We can go off the record. 12:19

20 (Brief break taken at 12:19 p.m.) 12:19

21 (Back on the record at 12:34 p.m.) 12:34

22 BY MR. ALSAFFAR: 12:35

23 Q. Okay. Are you ready? 12:35

24 A. Yes, sir. 12:35

25 Q. All right. Okay. We were talking about the 12:35

1 confinement issue and then what was done after you issued and 12:35  
2 signed this confinement order. I believe you said this would 12:35  
3 have been provided to your first sergeant whoever that was at 12:35  
4 the time, right? 12:35

5 A. Correct. 12:35

6 Q. And then you would have tasked that first sergeant to 12:35  
7 follow up -- to follow up and make sure that this was followed 12:35  
8 through on, correct? 12:35

9 A. Yes. 12:35

10 Q. Okay. I also noticed that we have the staff judge 12:35  
11 advocate as well listed Dawn Hankins on the confinement order. 12:35  
12 Do you see that? 12:36

13 A. Yes. 12:36

14 Q. Would you have -- I noticed -- I know on your letter 12:36  
15 and to which this order was attached you had the staff judge 12:36  
16 advocate 49th Wing as the first person of -- first office of 12:36  
17 contact on this, correct? 12:36

18 A. Correct. 12:36

19 Q. So that means you would have also sent this to the 12:36  
20 judge advocate too also know about. That what that means? 12:36

21 A. I believe it would have gone to them first, yes. 12:36

22 Q. Okay. And what follow up or coordination would you 12:36  
23 have done with the judge advocate's office after informing them 12:36  
24 of all these -- informing them of the need to keep him in 12:36  
25 confinement and the specific dangerous facts about Devin Kelley 12:36

1 that are outlined in this letter? What would have done to 12:36  
2 follow up with -- with the judge advocate? 12:36

3 A. I probably would have contacted the first sergeant to 12:36  
4 make sure that it actually had gone to the judge advocate's 12:36  
5 office. 12:36

6 Q. Okay. And did you do that in this case? 12:36

7 A. I don't recall. 12:36

8 Q. Okay. Did you -- is there any documentation anywhere 12:36  
9 that shows that you followed up to -- with your first sergeant 12:37  
10 to ensure that all these orders and all these threats by Devin 12:37  
11 Kelley were reported to these various offices? 12:37

12 A. No. 12:37

13 Q. Okay. And was there any system that the Air Force 12:37  
14 had in place at Holloman Air Force Base that would have allowed 12:37  
15 to you document that for others to see and confirm at Holloman 12:37  
16 Air Force Base? 12:37

17 A. Not that I'm aware of. 12:37

18 Q. Okay. Electronic or otherwise? 12:37

19 A. Either/or. 12:37

20 Q. Okay. So based on what we talked about I think it's 12:37  
21 -- my understanding is that neither you or anyone that you 12:37  
22 supervised at Holloman Air Force Base were individuals who 12:37  
23 would have been responsible, employees responsible for 12:37  
24 reporting to the NICS FBI system; is that correct? 12:38

25 A. Correct. 12:38

1 MR. ALSAFFAR: Okay. Is there a camera running? No 12:38  
2 this one. But is that a camera that seems to keep -- is that a 12:38  
3 security camera? 12:38

4 MS. KRIEGER: I don't think it's a security camera. 12:38  
5 I don't know what that is. 12:38

6 MR. ALSAFFAR: Strictly out of curiosity because that 12:38  
7 thing is following me. 12:38

8 MS. KRIEGER: Is it moving? 12:38

9 MR. ALSAFFAR: Yeah. It's been moving around 12:38  
10 throughout the deposition. 12:38

11 MS. KRIEGER: Oh. I had -- 12:38

12 MR. ALSAFFAR: So I just thought is that a security 12:38  
13 camera or a motion camera. I'm fine with it. I was just 12:38  
14 curious. 12:38

15 MS. KRIEGER: I have no idea. I assume it's part of 12:38  
16 the courtroom technology. 12:38

17 THE WITNESS: We typically do teleconferences by 12:38  
18 video. 12:38

19 MR. ALSAFFAR: Yeah. 12:38

20 THE WITNESS: And that would usually be a camera that 12:38  
21 would be used, but as far as that I don't know. 12:38

22 BY MR. ALSAFFAR: 12:38

23 Q. No. I was just curious because I've seen it move a 12:38  
24 few times while we've been doing this. 12:38

25 Okay. Did you -- did your -- when you were acting 12:38

1 commander or second in command at Holloman Air Force Base did 12:38  
2 you ever had any kind of monthly or weekly or intermittent 12:38  
3 meetings where you sat down and reviewed any investigated case 12:39  
4 files that were being done on people like Devin Kelley who were 12:39  
5 in your command? 12:39

6 A. No. 12:39

7 Q. All right. So that would -- then just to close that 12:39  
8 out, you never had any oversight review meetings with the 49th 12:39  
9 Security Forces regarding Devin Kelley's case -- 12:39

10 A. No. 12:39

11 Q. -- correct? 12:39

12 Never had any oversight or joint meetings with the 12:39  
13 staff judge advocate's office regarding Devin Kelley's case, 12:39  
14 right? 12:39

15 A. Right. 12:39

16 Q. And you never had any kind of joint meetings to 12:39  
17 review Devin Kelley's case periodically with the AFOSI 12:39  
18 Detachment 225; is that right? 12:39

19 A. That's right. 12:39

20 Q. Okay. Let's go to Page 13358 which is in Exhibit 6 12:40  
21 and I've also -- have you gotten there? 12:40

22 A. Yes. 12:40

23 Q. Okay. This is an E-mail, you see Tracy Wolfe is on 12:40  
24 the top of it. Do you see that? 12:40

25 A. Yes, I do. 12:40

1 Q. And what is the date of this E-mail? The actual 12:40  
2 E-mail. 12:40

3 A. 7 November 2012. 12:40

4 Q. And who is this E-mail to? 12:40

5 A. It is to Lieutenant Colonel Bearden. 12:40

6 Q. And again, remind us who that is? 12:40

7 A. He is the squadron commander at that time. 12:40

8 Q. All right. And when you say "squadron commander" he 12:40  
9 was the 49th LRS commander, correct? 12:40

10 A. Correct. 12:40

11 Q. Where you were at times acting commander? 12:40

12 A. Correct. 12:40

13 Q. All right. So do you know who Brett Johnson is? 12:41

14 A. No. 12:41

15 Q. Okay. So you only know him by what's described here 12:41  
16 as Captain, U.S. Air Force, ACC 49 WG/JA? 12:41

17 A. Correct. 12:41

18 Q. So Captain Johnson is with -- can you tell us what 12:41  
19 ACC 49 WG/JA is? 12:41

20 A. ACC would be Air Combat Command is usually just a 12:41  
21 designator that -- okay. ACC is Air Combat Command usually 12:41  
22 just something that gets put on E-mail addresses. It does vary 12:41  
23 depending on address. 49 Wing JA is a 49th Wing Judge Advocate 12:41  
24 General's office. 12:41

25 Q. Okay. And -- so he's a judge advocate? 12:41

1 A. Yes, sir. 12:41

2 Q. So in this E-mail to Lieutenant Colonel Bearden he 12:41  
3 was the commander of 49 LRS at the time, correct, November 7, 12:41  
4 2012, correct? 12:41

5 A. Correct. 12:41

6 Q. It states, "Lieutenant Colonel Bearden, I wanted to 12:41  
7 let you know that A1C Devin Kelley was sentenced today. A 12:42  
8 panel of officers and enlisted members sentenced him to the 12:42  
9 following." And then it lists his sentence reduction to E-1; 12:42  
10 12 months confinement; and a bad conduct discharge. And then 12:42  
11 he entered pleas of guilty to the following charges and 12:42  
12 specifications and it lists assault. Article 128 assault 12:42  
13 charges he pled guilty to, correct? 12:42

14 A. Correct. 12:42

15 Q. And it's got both -- both charges, the assault 12:42  
16 charges under Article 121 -- I'm sorry -- under Article 128 12:42  
17 that he pled guilty to, correct? 12:42

18 A. I believe that's what that means, yes. 12:42

19 Q. Okay. And so at this point in time -- this is just 12:42  
20 -- what I'm trying to go through is the notification of 12:42  
21 conviction. So at this point your outfit, the 49th LRS 12:42  
22 Squadron, has been -- and the 49th Wing Judge Advocate's Office 12:43  
23 is confirming and notifying you that Devin Kelley has now been 12:43  
24 convicted of these two assault crimes, correct? 12:43

25 A. The notification is going to Colonel Bearden, yes. 12:43

1 Q. Okay. Colonel Bearden is the head commander of the 12:43  
2 49th LRS at the time, November 7, 2012, correct? 12:43

3 A. Correct. 12:43

4 Q. All right. And so in addition to that -- well, let's 12:43  
5 just put this -- so this E-mail, and this includes Tracy Wolfe 12:43  
6 is actually on this E-mail as well, is that correct? 12:43

7 A. Correct. 12:43

8 Q. And so your first sergeant, the person you rely on to 12:43  
9 manage these types of folks in your command, you know, like 12:43  
10 Devin Kelley have these issues, your first sergeant is also 12:43  
11 being made aware that Devin Kelley's been convicted of these 12:43  
12 assaults, correct? 12:43

13 A. Correct. 12:43

14 Q. All right. So at this time your -- your commander 12:43  
15 and the person who works under you that you rely on for these 12:44  
16 kinds of things has been informed that Devin Kelley's been 12:44  
17 convicted of these two assaults, right? 12:44

18 A. Correct. 12:44

19 Q. Okay. And let's go to the next page. Actually let 12:44  
20 me give you the page number. It's the page before. Sorry. 12:44  
21 13357. Have you seen this document before? 12:44

22 A. No. 12:44

23 Q. Okay. This is called -- what is the title at the 12:44  
24 top? 12:44

25 A. It is titled "Report of Result of Trial 12:44

1 Continuation." 12:44

2 Q. Okay. And what's the date on it? 12:44

3 A. November 7, 2012. 12:44

4 Q. I'm going to show you a better copy. Let's go ahead 12:45

5 and mark it. 12:45

6 (Document marked Exhibit No. 9.) 12:45

7 Q. Okay. I'm handing you -- ready? Sorry. 12:45

8 I'm handing you Exhibit No. 9, Bates Stamped 12:45

9 USA12947. That's a copy. It's the same thing you're looking 12:45

10 in the -- just -- just before and it's on the screen. It's 12:46

11 just a more fulsome document and the bottom's not cut off, so 12:46

12 12947. This is also the report of result trial for November 12 12:46

13 -- I'm sorry -- November 7, 2012, correct? 12:46

14 A. Correct. 12:46

15 Q. Okay. So you see that it states that under 12:46

16 Specification 1 charges: Violation of USM -- UCMJ, 128 pleads 12:46

17 guilty. Do you see that? 12:46

18 A. Yes. 12:46

19 Q. And then second specification under Charge of 128 it 12:46

20 is also plea of guilty related to a child, right? 12:46

21 A. Correct. 12:46

22 Q. Okay. And then if you look at the bottom left that's 12:46

23 what I wanted to draw your attention to. Do you see the 12:46

24 distribution list? 12:46

25 A. Yes. 12:46

1 Q. Okay. And it includes quite -- quite a few command 12:46  
2 levels; is that right? 12:46

3 A. Correct. 12:46

4 Q. All right. Let's go through those. This is stating 12:46  
5 that this report is the result of a trial is being sent to all 12:47  
6 these various command levels, correct? 12:47

7 A. Correct. 12:47

8 Q. Okay. Let's look at the first one. What is 12:47  
9 ACC/CC/JA? 12:47

10 A. That would be Air Combat Command, Commander, Judge 12:47  
11 Advocate. 12:47

12 Q. Okay. So that would be the judge advocate. One of 12:47  
13 the highest levels of command just below the secretary of the 12:47  
14 Air Force, correct? 12:47

15 A. Correct. 12:47

16 Q. All right. And then what's the next one, AF -- 12:47

17 A. Twelfth Air Force Commander, Judge Advocate. 12:47

18 Q. And that would be above your command but below the 12:47  
19 ACC command, correct? 12:47

20 A. Correct. 12:47

21 Q. Remember how we were talking about numbered command 12:47  
22 and you just weren't sure which one it was and I said I've seen 12:47  
23 12 a lot, that's what this is referring to; 12 Air Force 12:47  
24 Command, Judge Advocate, correct? 12:47

25 A. Okay. 12:47

1 Q. So you have -- well, that's your understanding what 12:47

2 12 Air Force CC/JA stands for, correct? 12:47

3 A. Correct. 12:47

4 Q. And so we have the two highest levels of judge 12:47

5 advocate commander receiving notice of this conviction, 12:47

6 correct? 12:47

7 A. Correct. 12:47

8 Q. And then what's the next one? 12:47

9 A. 49th Wing, Commander, Judge Advocate. 12:47

10 Q. All right. So that's the next level. Now we have 12:48

11 all three levels of the judge advocate command being notified 12:48

12 of this conviction, right? 12:48

13 A. Yes. 12:48

14 Q. The next level, what's MDG? 12:48

15 A. MDG is Medical Group Commander. 12:48

16 Q. Okay. And then the next one? 12:48

17 A. Force Support Squadron. I don't know what DPM stands 12:48

18 for. 12:48

19 Q. Okay. Do you know what 49 FSS is? 12:48

20 A. Force Support Squadron. 12:48

21 Q. Force Support Squadron? 12:48

22 A. Yes. 12:48

23 Q. Okay. And what is that? 12:48

24 A. That is the services organization that provides 12:48

25 common services to base personnel. 12:48

1 Q. Okay. And what's the next one? 12:48

2 A. Next one is Comptroller Squadron. That's the finance 12:48  
3 personnel. 12:48

4 Q. Okay. And that's the 49th Comptroller? 12:48

5 A. Correct. I don't know what FMFP means. 12:48

6 Q. Okay. And what's the next one? 12:48

7 A. The next one is 49 Security Forces Commander, SFOI. 12:48  
8 I don't what SFOI stands for. 12:48

9 Q. My understanding it's the Security Forces Office of 12:48  
10 Investigations. Have you heard that phrase before? 12:49

11 A. I know they have investigators. 12:49

12 Q. Okay. So this is the 49th Security Forces Squadron 12:49  
13 which is the squadron that was investigating Devin Kelley at 12:49  
14 the Holloman Air Force Base, 49th, correct? 12:49

15 A. I don't know if they were the ones investigating, but 12:49  
16 -- 12:49

17 Q. Okay. Well, remember I showed you the record -- 12:49

18 A. Right. 12:49

19 Q. -- with it. It was the 49th Security Forces Squadron 12:49  
20 that -- 12:49

21 A. I don't know, but the document does support that. 12:49

22 Q. Okay. All right. So the 49th Security Forces 12:49  
23 Squadron is listed as -- as receiving this conviction as well, 12:49  
24 correct? 12:49

25 A. Correct. 12:49

1 Q. And then what's the next one if you know? 12:49

2 A. I think -- I don't know what AFLOA stands for, but I 12:49  
3 think that's the Area of Defense Counsel. 12:49

4 Q. Okay. And then the AFOSI one, the next one? 12:49

5 A. And that would just be Air Force Office of Special 12:49  
6 Investigations Detachment 225. 12:49

7 Q. And that's the -- that's the specific special 12:49  
8 investigation's office that's located on Holloman Air Force 12:49  
9 Base that investigated Devin Kelley, right? 12:49

10 A. I believe so, yes. 12:49

11 Q. And then CDO, do you know what that is? 12:49

12 A. I don't know what CDO is. 12:49

13 Q. Okay. So this report of conviction sent to three 12:49  
14 different levels of JAG command was sent to the 49th Security 12:50  
15 Forces on Holloman, as well as to the AFOSI Detachment on 12:50  
16 Holloman Air Force Base on November 7, 2012, correct? 12:50

17 A. It looks like it, yes. 12:50

18 Q. All right. So at this point -- and -- and in 12:50  
19 addition to that we've already established that you also -- 12:50  
20 you, your outfit 49th LRS received notification of the report 12:50  
21 of result of trial as well? 12:50

22 A. Correct. 12:50

23 Q. Correct. So at that point everybody on Holloman Air 12:50  
24 Force Base that needed to know that JAG, AFOSI, the 49th 12:50  
25 Security Forces, 49th Logistics Readiness Division where Devin 12:50

1 Kelley worked, all were made aware of the fact that he was 12:50  
2 officially convicted of these felonies, correct? 12:50

3 A. I don't know if they were all notified, but all 12:50  
4 pertinent people on the base were notified. But, yes, all 12:50  
5 these people were appeared to be. 12:50

6 Q. Okay. And so all those sections I named were 12:51  
7 notified? 12:51

8 A. Yes. 12:51

9 Q. Okay. And when -- when this hit the 49th LRS do you 12:51  
10 remember when you found out that he was convicted if you were 12:51  
11 -- if you found out at all? 12:51

12 A. I don't know if I was notified. I don't remember 12:51  
13 anything. 12:51

14 Q. Okay. Would that be something you would have 12:51  
15 remembered? Somebody under your command that you had issued a 12:51  
16 very detailed confinement letter detailing shooting threats and 12:51  
17 mass violence threats that you would soon after that find out 12:51  
18 that he was convicted. Would that be something you would 12:51  
19 usually remember? 12:51

20 A. Yes. 12:51

21 Q. Okay. And you're saying that you don't remember 12:51  
22 being notified that Devin Kelley was convicted of these crimes? 12:51

23 A. Correct. 12:51

24 Q. Okay. And I take it by that, that there was nothing 12:51  
25 your command did that you're aware of, including Tracy Wolfe, 12:51

1 including yourself, to ensure that at that point when after you 12:52  
2 were notified he was convicted that his fingerprints were 12:52  
3 submitted to the FBI? 12:52

4 A. Correct. 12:52

5 Q. All right. Now, at this point that he's been 12:52  
6 convicted would you agree that if a dangerous -- at this point 12:52  
7 he's a dangerous criminal, correct? He's been convicted of two 12:52  
8 dangerous crimes, true? 12:52

9 A. True. 12:52

10 Q. Okay. And if a dangerous criminal like Devin Kelley 12:52  
11 who has been convicted of 128 Assault, an offense that would 12:52  
12 deny him access to weapons and firearms, and if those 12:52  
13 convictions are not reported to the FBI and people like Devin 12:52  
14 Kelley get access to firearms that increases the risk of harm 12:52  
15 to the general public, doesn't it? 12:52

16 MS. KRIEGER: Objection to form. Relevance. Calls 12:52  
17 for speculation. 12:52

18 A. I don't know specifically what UCMJ 128 Article 12:52  
19 means, but it seems if someone was convicted it would make 12:52  
20 sense. 12:52

21 BY MR. ALSAFFAR: 12:52

22 Q. Well, it's described in that report of result of 12:53  
23 trial very basically and simply isn't it what exactly he was 12:53  
24 convicted of? 12:53

25 A. The charges, yes. I don't know what the full article 12:53

1 means. 12:53

2 Q. That's fine. That's fine. And it states in that 12:53

3 report that it's Article 128, correct? 12:53

4 A. It states that those specifications are under 128. I 12:53

5 just don't know what -- 12:53

6 Q. That is totally okay. Well, what I'm saying is, then 12:53

7 it tells you very -- in very layman's language what those -- 12:53

8 those charges and specifications are that he specifically pled 12:53

9 guilty to, correct? 12:53

10 A. Correct. 12:53

11 Q. And that would -- Specification 1 was his assault on 12:53

12 Tessa Kelley and Specification 2 is his assault on his child, 12:53

13 right? 12:53

14 A. Correct. 12:53

15 Q. Okay. And so -- 12:53

16 MS. KRIEGER: I'm sorry. Someone was just asking at 12:53

17 the -- opening the door and gesturing to me. I just want to 12:53

18 see what that is. 12:53

19 MR. ALSAFFER: Okay. We'll just stay on the record. 12:53

20 MS. KRIEGER: You can stay on for 30 seconds. 12:54

21 MR. ALSAFFAR: Okay. 12:54

22 MS. KRIEGER: Okay. 12:54

23 BY MR. ALSAFFAR: 12:54

24 Q. Okay. So let me re-ask my question now that we've 12:54

25 kind of gone through the conviction document. So if a 12:54

1 dangerous criminal like Devin Kelley who's been convicted of 12:54  
2 the crimes that are outlined in this report of result of trial, 12:54  
3 and assume with me that those convictions would disqualify him 12:54  
4 from purchasing firearms and also that those convictions were 12:54  
5 not reported to the FBI and that would allow him to get access 12:55  
6 for firearms, that would increase the risk of harm to the 12:55  
7 general public; wouldn't it? 12:55

8 MS. KRIEGER: Objection. Calls for speculation. 12:55

9 A. That was -- can you rephrase that? 12:55

10 BY MR. ALSAFFAR: 12:55

11 Q. Yeah, yeah. No. It's a very -- it was a very 12:55  
12 confusing question. So if a dangerous criminal who's been 12:55  
13 convicted of crimes like Devin Kelley was, is allowed access to 12:55  
14 firearms that he shouldn't be allowed access to, that increases 12:55  
15 the risk of harm to the general public; doesn't it? 12:55

16 MS. KRIEGER: Same objection. 12:55

17 A. Yes. 12:55

18 BY MR. ALSAFFAR: 12:55

19 Q. And the more information that the FBI has on 12:55  
20 dangerous felons the better decisions they can make in 12:55  
21 preventing individuals who shouldn't have firearms from getting 12:55  
22 those firearms. Would you agree with that? 12:55

23 A. Yes. 12:55

24 Q. Okay. Do you agree that when Air Force agents and 12:56

25 Air Force employees are not properly trained on how to collect 12:56

1 or submit fire -- fingerprints that that can lead to 12:56  
2 operational failures in both criminal investigation and ability 12:56  
3 to keep firearms out of dangerous people's hands? 12:56

4 MS. KRIEGER: Objection. Calls for speculation. 12:56

5 A. Yes. 12:56

6 BY MR. ALSAFFAR: 12:56

7 Q. Okay. Do you -- did you ever do any work with the 12:56  
8 confinement facility on the 49th -- in the 49th Squadron? 12:56

9 A. I don't remember. 12:56

10 Q. There's a -- the confinement facility that you 12:56  
11 ordered Devin Kelley to be kept in that was -- where was that 12:56  
12 located? 12:56

13 A. I don't know. 12:56

14 Q. Forgive me. How come you don't know where the 12:57  
15 confinement facility is that you're ordering someone to be kept 12:57  
16 in? How is that possible? 12:57

17 A. I was not told where the confinement facility was. 12:57

18 Q. Okay. All right. I got to go back and unpack this a 12:57  
19 little bit because I'm a little confused. So let's just start 12:57  
20 from the beginning, the June 8th letter. So do you have that 12:57  
21 June 8th letter? It's in Exhibit 6. Just flip to it. 12:57

22 A. Is that the confinement letter towards the end of 12:57  
23 document? 12:57

24 Q. It should be, yes. 12:57

25 A. 13374? 12:57

1 Q. Yes. Okay. Your -- this letter and the accompanying 12:57  
2 actual order accompanying the letter is you saying that -- that 12:57  
3 he, Devin Kelley, needs to be put into this confinement 12:58  
4 facility, right? 12:58

5 A. It is confirming that he needs to continue to be 12:58  
6 confined. 12:58

7 Q. Right. He was already in confinement and you were 12:58  
8 saying don't release him. He needs to be contained and to be 12:58  
9 confined, right? 12:58

10 A. Correct. 12:58

11 Q. And did you -- did you not know where that 12:58  
12 confinement facility was when you ordered him to stay in that 12:58  
13 facility? 12:58

14 A. No. 12:58

15 Q. And the reason I ask that in part is like how would 12:58  
16 you know to follow up and ensure that the folks at the 12:58  
17 confinement facility had him there and he was there? I mean, 12:58  
18 how -- how do you know to follow up on that if you don't know 12:58  
19 where the facility is? 12:58

20 A. I don't know. 12:58

21 Q. Okay. Is there a confinement facility on Holloman 12:58  
22 Air Force Base? 12:58

23 A. I don't know. 12:58

24 Q. Okay. Okay. Now, I want to ask you about something 12:58  
25 that occurred throughout the military in two thousand -- it was 12:58

1 about 2015 timeframe. The Air Force and the -- in fact, every 12:59  
2 military branch was being made aware that there were -- there 12:59  
3 were systematic problems with every military organization 12:59  
4 properly collecting fingerprints and properly submitting 12:59  
5 fingerprints and properly submitting convictions of reportable 12:59  
6 offenses under the various laws, mandatory laws. Are you aware 12:59  
7 of that? 12:59

8 A. No. 12:59

9 Q. Okay. So you were at Holloman Air Force Base until 12:59  
10 2014, correct? 12:59

11 A. Correct. 12:59

12 Q. Okay. And you've been working -- you've been -- 12:59  
13 since that day and presently you're still working with various 12:59  
14 Air Force bases including where we are today, right? 12:59

15 A. For the majority of that time, yes. 12:59

16 Q. Okay. During your time from -- well, from when you 12:59  
17 were on base when Devin Kelley was there to currently, have you 12:59  
18 -- has anyone in the Air Force or the Department of Defense 1:00  
19 informed you or told you about the long time problems that the 1:00  
20 Air Force has had prior to this shooting with properly 1:00  
21 reporting, collecting fingerprints and reporting convictions to 1:00  
22 the FBI? 1:00

23 MS. KRIEGER: Objection to form. 1:00

24 A. No. 1:00

25 BY MR. ALSAFFAR: 1:00

1 Q All right. Other than me, as I sit here today, has 1:00  
2 anyone else talked to you about the Air Force's long-term 1:00  
3 problems prior to this shooting with properly collecting and 1:00  
4 submitting fingerprints to the FBI along with convictions to 1:00  
5 the FBI? 1:00

6 A. No. 1:00

7 Q. So I'm the first person to do that? 1:00

8 A. Yes. 1:00

9 Q. Okay. Have you spoken to anybody at Holloman Air 1:00  
10 Force Base that you used to work with while Devin Kelley, you 1:01  
11 know, during the timeframe that he was there and talk to them 1:01  
12 or they talk to you about the Air Force's correcting those 1:01  
13 problems with its long-term problems with collecting and 1:01  
14 submitting fingerprints and convictions to the FBI? 1:01

15 MS. KRIEGER: Objection to form. 1:01

16 A. No. 1:01

17 BY MR. ALSAFFAR: 1:01

18 Q. No. Nobody has? 1:01

19 A. Not in my squadron. 1:01

20 Q. Okay. 1:01

21 A. I would say no one period. 1:01

22 Q. Okay. I don't know if I asked you this and I 1:01  
23 apologize if I have. I just don't -- don't remember whether I 1:01  
24 had. When did you find out about Devin Kelley's mass shooting 1:01  
25 on November 5, 2017? 1:01

1 A. I don't recall any specific date that I would have 1:01  
2 done that. 1:01

3 Q. Generally when do you remember first hearing about 1:01  
4 it? 1:01

5 A. Maybe within a couple of weeks. Maybe less. 1:02

6 Q. Did anyone from the Department of Defense, Inspector 1:02  
7 General, or the Air Force, whether it's security forces, AFOSI 1:02  
8 or anyone in the Air Force talk to you, interview you about 1:02  
9 your knowledge of Devin Kelley while he was in your command? 1:02

10 A. No. 1:02

11 Q. Who was the first person to talk to you about Devin 1:02  
12 Kelley, the mass shooting and his time under your command? 1:02

13 A. With that three criteria I don't know. Can you be 1:03  
14 more specific in your question? 1:03

15 Q. Yeah. Yeah. I'm trying to find out -- you know, one 1:03  
16 of the things we're trying to do here is find out sort of, you 1:03  
17 know, what's been happening in the Air Force to try to correct 1:03  
18 these -- these problems with these dangerous folks not being 1:03  
19 reported to the FBI and not being indexed properly. I mean, 1:03  
20 you're aware that this has been a massive problem for the Air 1:03  
21 Force? Do you know that? 1:03

22 A. Not until I was told about it in this. 1:03

23 Q. Okay. And you told you that? 1:03

24 A. You. 1:03

25 Q. Okay. Were you aware that there are -- there were 1:03

1 thousands and thousands of convicted armed service members 1:03  
2 between 2002 and 2017 that were not reported to the FBI that 1:03  
3 should have been reported? 1:03

4 A. No. 1:03

5 Q. Did you know that? 1:03

6 It wasn't just Devin Kelley. There were thousands. 1:03

7 No one took -- am I the first person to tell you that? 1:03

8 A. Yes. 1:03

9 Q. Okay. So it's -- what is it, January 9, 2018, is the 1:03  
10 first time anyone's told you that thousands and thousands of 1:03  
11 convicts were not being reported by the military to the FBI? 1:04

12 MS. KRIEGER: It's 2020. 1:04

13 BY MR. ALSAFFAR: 1:04

14 Q. Sorry. 2020. 1:04

15 A. Correct. 1:04

16 Q. All right. So I presume by that that -- let me -- 1:04  
17 let me ask this question a different way. What, if any, 1:04  
18 disciplinary measures were enacted against anybody in your 1:04  
19 command at the 49th following this mass shooting? 1:04

20 A. I don't recall anything specific. 1:04

21 Q. That you're aware of? Are you aware -- let me ask it 1:04  
22 this way: Are you aware of any disciplinary action that has 1:04  
23 been taken against any Air Force member either in your specific 1:04  
24 squadron or at Holloman Air Force Base related to the Devin 1:05  
25 Kelley matter? 1:05

1 A. No. 1:05

2 Q. I presume that you have never suffered any 1:05  
3 disciplinary action as a result of his Devin Kelley matter; is 1:05  
4 that fair to say? 1:05

5 A. Correct. 1:05

6 Q. All right. Nobody has told you -- well, I guess you 1:05  
7 just told me that, that you're not aware of any. Nobody's ever 1:05  
8 told you that on any other kind of disciplinary action taken 1:05  
9 within Holloman Air Force Base, how many Holloman Air Force 1:05  
10 Base employees that you're aware of, correct? 1:05

11 A. Regarding this case, no. 1:05

12 Q. Okay. Right. And I'm just talking about this -- 1:05  
13 regarding the Devin Kelley events. And just to make sure that 1:05  
14 I asked question or it wasn't contained in your prior answers, 1:05  
15 are you aware of anybody above you and above your authority 1:05  
16 level, supervisory level that has been disciplined in any way 1:05  
17 for the Devin Kelley matter? 1:05

18 A. No. 1:05

19 MR. ALSAFFAR: Okay. Okay. Let's take a break and 1:05  
20 look over my notes. 1:05

21 MS. KRIEGER: Okay. 1:05

22 (Brief break taken at 1:05 p.m.) 1:06

23 (Back on the record at 1:13 p.m.) 1:06

24 MR. ALSAFFAR: I pass the witness. 1:13

25 EXAMINATION 1:13

1 QUESTIONS BY MS. KRIEGER: 1:13

2 Q. Okay. Try to finish this up. 1:13

3 Mr. McLeod-Hughes, under what circumstances were you 1:13

4 acting director at Holloman? 1:14

5 A. Acting commander? 1:14

6 Q. Acting commander, I apologize, yes. 1:14

7 A. When my commander had to leave the area for any 1:14

8 extended period of time such as vacation time or if he was 1:14

9 attending a class or seminar in another location where he would 1:14

10 have to go TDY or temporary duty. 1:14

11 Q. So at any given time how -- how long would you have 1:14

12 been in the position of acting commander? 1:14

13 A. It could be anywhere from a few days to less than two 1:14

14 weeks. 1:14

15 Q. Okay. You were never acting commander for more than 1:14

16 two weeks? 1:14

17 A. I don't believe so. Typically acting commander 1:14

18 status is for a shorter period. It's -- it changes. There 1:14

19 would be other paperwork and processes to be done if the 1:14

20 commander would be gone longer than that. 1:14

21 Q. Normally if the commander was present who would write 1:15

22 or sign letters of reprimand? 1:15

23 A. The commander. 1:15

24 Q. And who would write or sign confinement orders? 1:15

25 A. The commander. 1:15

1 Q. But you were listed as a commander for the 1:15  
2 confinement order; is that right? 1:15

3 A. Yes. 1:15

4 Q. Do you know why you would have been? 1:15

5 A. No, I do not. 1:15

6 Q. Okay. Would you as acting commander have had the 1:15  
7 authority to order someone to pretrial confinement? 1:15

8 A. I don't know that answer. 1:15

9 Q. Okay. Your title was director of operations; is that 1:15  
10 correct? 1:15

11 A. Correct. 1:15

12 Q. And what were your day-to-day responsibilities? 1:15

13 A. My day-to-day responsibilities were to ensure our 1:15  
14 operations with our customers occurred smoothly and safely. 1:15

15 Making sure that each of our sections were doing the larger, 1:16  
16 bigger tasks that they would have to do. 1:16

17 Q. As director were you ordinarily involved in personnel 1:16  
18 issues? 1:16

19 A. No. 1:16

20 Q. Did you directly supervise Devin Kelley in any way? 1:16

21 A. No, I did not. 1:16

22 Q. Did you directly -- were you involved in any 1:16  
23 day-to-day supervision of individuals? 1:16

24 A. Yes. 1:16

25 Q. How many individuals? Or what level of individuals? 1:16

1           A.    I made reference earlier to several flights.  It's           1:16  
2   the name given to smaller organize -- smaller entities in the           1:16  
3   squadron that are responsible for something specific.  There           1:16  
4   are also other smaller offices.  I was responsible and oversaw           1:16  
5   two of those smaller offices.           1:16

6           Q.    How many airmen were in the 49th Logistics and           1:17  
7   Readiness Squadron approximately?           1:17

8           A.    Approximately 220.  If not a few more.           1:17

9           Q.    Did your day-to-day -- did anyone in the Logistics           1:17  
10   and Readiness Squadron have any responsibilities requiring the           1:17  
11   taking of fingerprints?           1:17

12          A.    No.           1:17

13           MR. ALSAFFAR:  Objection to form.           1:17

14   BY MS. KRIEGER:           1:17

15          Q.    Did anyone in the Logistics and Readiness Squadron           1:17  
16   have as part of their duties the responsibility to submit           1:17  
17   fingerprints to the FBI?           1:17

18           MR. ALSAFFAR:  Objection.  Form.           1:17

19          A.    No.           1:17

20   BY MS. KRIEGER:           1:17

21          Q.    Did your position involve any duties or           1:17  
22   responsibilities related to law enforcement?           1:17

23          A.    No.           1:18

24          Q.    Did you supervise any law enforcement personnel?           1:18

25          A.    No.           1:18

1 Q. Did you personally ever take fingerprints? 1:18

2 A. No. 1:18

3 Q. Did you personally ever submit fingerprints to the 1:18  
4 FBI? 1:18

5 A. No. 1:18

6 Q. Why not? 1:18

7 A. That's not my position to do that. 1:18

8 Q. Do you know whose position it would be to do that? 1:18

9 A. I know the security forces personnel take 1:18  
10 fingerprints, but I don't know who would submit it to the FBI. 1:18

11 Q. When you wrote the memorandum -- you wrote the 1:18  
12 memorandum and the confinement order. You signed, the 1:18  
13 memorandum and confinement order for Devin Kelley to go into 1:18  
14 pretrial confinement, right? 1:18

15 A. Correct. 1:18

16 Q. Do you know if Devin Kelley did in fact go into 1:18  
17 pretrial confinement? 1:18

18 A. No. 1:18

19 Q. Can we just look at Exhibit 6 again, the big exhibit, 1:19  
20 and we're looking at Page 13358, and we've already looked at 1:19  
21 this. This is the E-mail. It looks like it came from Master 1:19  
22 Sergeant Wolfe's E-mail. The second full paragraph and the 1:19  
23 second sentence says, "He will receive 150 days of credit 1:19  
24 towards his 12 month sentence for the time he spent in pretrial 1:19  
25 confinement." Did I read that right? 1:19

1 A. Yes. 1:19

2 Q. Based on that did Devin Kelley go into pretrial 1:19  
3 confinement? 1:19

4 A. Yes. 1:19

5 Q. Okay. And it looks like the same exhibit, Page 1:19  
6 13375. This is -- this is in fact the page from your 1:20  
7 memorandum ordering Mr. Kelley into pretrial confinement, 1:20  
8 correct? 1:20

9 A. Correct. 1:20

10 Q. And let's look at Paragraph 6, and then the -- it's a 1:20  
11 long last sentence. The last sentence on this page, "After 1:20  
12 learning that he might be released from the mental health 1:20  
13 facility he deliberately planned to obtain another gun--and 1:20  
14 then in parenthesis--the other gun having been taken away from 1:20  
15 him," closed parenthesis. Did I read that right? 1:20

16 A. Yes. 1:20

17 Q. So at the time you wrote this memo you were -- is it 1:20  
18 -- were you aware that Devin Kelley had at one time had a 1:20  
19 weapon? 1:20

20 A. Yes. 1:20

21 Q. And were you aware that Devin Kelley's weapon had 1:20  
22 been taken away from him? 1:20

23 A. Yes. 1:20

24 Q. Okay. Is there a reason that you might not have -- 1:21  
25 scratch that. 1:21

1 Is it possible that the commander would have -- who 1:21  
2 came back from wherever he was at the time this the -- an order 1:21  
3 was written, is it possible that commander might have followed 1:21  
4 up on this pretrial confinement order? 1:21

5 MR. ALSAFFAR: Objection. Form. 1:21

6 A. Yes. 1:21

7 BY MS. KRIEGER: 1:21

8 Q. Is the reason you didn't follow up possibly because 1:21  
9 you were no longer acting commander at that time? 1:21

10 A. Yes. 1:21

11 Q. Okay. Just let me quickly look at my notes. 1:21

12 Just going back to the fingerprints very briefly. 1:22  
13 Did you have any responsibilities or duties to check to see if 1:22  
14 fingerprints had been collected or submitted? 1:22

15 A. No. 1:22

16 MR. ALSAFFAR: Objection to form. 1:22

17 BY MS. KRIEGER: 1:22

18 Q. Does your position or does the Logistics and 1:22  
19 Readiness position -- Squadron are there Air Force instructions 1:22  
20 associated with your work? 1:22

21 A. Yes. 1:22

22 Q. Do you know -- Air Force instructions have series 1:22  
23 numbers, right? 1:22

24 A. Yes. 1:22

25 Q. Do you know what the series number is for the Air 1:22

1 Force instruction associated with your job? 1:22

2 A. The majority of them are the 24 series. 1:22

3 Q. Okay. Would you have any reason to look at Air Force 1:22  
4 instructions in the 31 series? 1:23

5 A. I don't know what -- I don't remember what the 31 1:23  
6 series are. 1:23

7 Q. Okay. Would you have any reason to look at Air Force 1:23  
8 instructions that didn't relate to your job position? 1:23

9 A. Occasionally, yes. 1:23

10 Q. Okay. What reason would that be? 1:23

11 A. There are some -- there are some supervisory 1:23  
12 responsibilities that we have that don't necessarily touch on 1:23  
13 the logistics series. The 36 series are personnel. 1:23

14 Q. Okay. 1:23

15 A. So oftentimes we would review some of those 1:23  
16 regulatory references to see what it is if we try to help our 1:23  
17 personnel. There is occasionally some operational, the 10 1:23  
18 series regulations and wing safety as a 95 series. I think 1:23  
19 it's 95. So there will be occasions where we would go outside 1:23  
20 of our normal regulations to look stuff up. If not going to 1:23  
21 DoDI regulations or other organizations that apply. 1:24

22 MS. KRIEGER: Okay. I am done. 1:24

23 EXAMINATION 1:24

24 QUESTIONS BY MR. ALSAFFAR: 1:24

25 Q. Just a couple of quick follow up questions and we'll 1:24

1 be done in just a sec. Find something really quick. 1:25

2 If you look at Exhibit 6, Page 13372. Remember the 1:26

3 -- Ms. Krieger was asking you about the gun that was retrieved 1:26

4 from Devin Kelley. Do you see the type of gun here that it 1:26

5 indicates? 1:26

6 A. Yes. 1:26

7 Q. Thirty-eight special, right? 1:26

8 A. Yes. 1:26

9 Q. Okay. Were you aware that in April 2012 Devin Kelley 1:26  
10 also purchased another weapon, a 9mm semi automatic? 1:26

11 A. No. 1:26

12 Q. And that he purchased it at Holloman Air Force Base? 1:26

13 A. Is that the same weapon that was referenced in the 1:26  
14 previous documentation for trying to purchase? 1:26

15 Q. I'm asking you about whether you were aware that he 1:26  
16 purchased a -- 1:26

17 A. No. 1:26

18 Q. -- 9mm semi-automatic at Holloman Air Force Base 1:26  
19 Exchange in April 2012? 1:26

20 A. No. 1:26

21 Q. Okay. Are you aware that he purchased that 38 1:26  
22 revolver referenced in that document also at Holloman Air Force 1:26  
23 Base Exchange? 1:26

24 A. No. 1:26

25 Q. Okay. And I think you indicated that you had no 1:27

1 involvement or took any action to ensure those multiple weapons 1:27  
2 were taken from Devin Kelley after he was convicted or after he 1:27  
3 was put into pretrial confinement by your order, correct? 1:27

4 A. Correct. 1:27

5 Q. Okay. Ms. Krieger asked you a little bit about sort 1:27  
6 of the chain of command and I think -- I want to make sure I'm 1:27  
7 clear on this. Was Devin Kelley in your chain of command? 1:27

8 A. No. 1:27

9 Q. Okay. Whose chain of command was he in? 1:27

10 A. He was in Colonel Marconi's chain of command at the 1:27  
11 time. Lieutenant Colonel Marconi. 1:27

12 Q. Okay. And you were second in command under 1:27  
13 Lieutenant Marconi, correct? 1:27

14 A. Correct. 1:27

15 Q. All right. And then Devin Kelley was underneath you 1:27  
16 in rank? 1:27

17 A. Underneath me in rank, correct. 1:27

18 Q. Okay. And I think you mentioned that there were 200 1:27  
19 or so airmen in your command at Holloman Air Force Base while 1:27  
20 Devin Kelley was there? 1:28

21 A. Correct. 1:28

22 Q. Is that -- is that right? And I know that's a guess, 1:28  
23 that's an approximate number, right? 1:28

24 A. Yes. 1:28

25 Q. Okay. So approximately 200 airmen. How many of 1:28

1 those airmen had threatened mass violence against folks at 1:28

2 Holloman Air Force Base while you were there in 2011 to '12? 1:28

3 A. I'm not aware of any. 1:28

4 Q. Other than? 1:28

5 A. Other than Airman Kelley. 1:28

6 Q. Okay. Airman Kelley is the only airman out of those 1:28

7 200 or so while you were acting commander at Holloman Air Force 1:28

8 Base who threatened mass violence, correct? 1:28

9 A. Correct. 1:28

10 Q. And he was the only airman out of those 200 or so 1:28

11 airmen that had both threatened mass violence, escaped from a 1:28

12 mental institution, and was looking for guns and body armor 1:28

13 while he was in the mental institution, correct? 1:28

14 MS. KRIEGER: Objection to form. 1:28

15 BY MR. ALSAFFAR: 1:28

16 Q. Is that a fair statement? 1:28

17 A. Fair statement. 1:28

18 MR. ALSAFFAR: Okay. I don't have anymore questions. 1:28

19 Pass the witness. 1:28

20 MS. KRIEGER: Nothing further. 1:28

21 MR. ALSAFFAR: Thank you, sir. We're done. You 1:28

22 don't have to stay here anymore. I appreciate it. 1:28

23 COURT REPORTER: Counsel, I just need to get your 1:28

24 transcript orders. 1:28

25 MS. KRIEGER: We're going to read and sign. 1:28

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MR. ALSAFFAR: I will be the only one ordering. So  
I'll just have an E-mail PDF copy of the transcript and PDF  
E-mail of the exhibits.

(Deposition concluded at 1:29 p.m.)

\* \* \* \* \*

1:29  
1:29  
1:29  
1:29

REPORTER CERTIFICATION

I, ROBIN L. STRANIMEIER, a Registered Professional Reporter and Certified Shorthand Reporter in the State of Illinois, DO HEREBY CERTIFY that pursuant to agreement between counsel there appeared before me on January 9, 2020, at Scott Air Force Base, 375AMW/JA, 101 Heritage Drive, Suite 210, Scott Air Force Base, Illinois 62225, MAJOR NATHAN McLEOD-HUGHES, who was first duly sworn by me to tell the whole truth of all knowledge touching upon the matter in controversy aforesaid so far as the witness should be interrogated concerning the same; that the witness was examined and said examination was taken down in shorthand by me and afterwards transcribed, signature having been RESERVED by agreement of counsel, and said deposition is herewith returned.

Dated this 23rd day of January, 2020.

*Robin L Stranimeier*

Robin L. Stranimeier, RPR, CSR  
CSR #084-004700  
RPR #058512

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Reference No.: 4848768

Case: HOLCOMBE vs UNITED STATES of AMERICA

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I have read the entire transcript of my Deposition taken in the captioned matter or the same has been read to me, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the DEPOSITION ERRATA SHEET hereof, with the understanding that I offer these changes as if still under oath.

\_\_\_\_\_  
Major Nathan Mcleod-Hughes

NOTARIZATION OF CHANGES  
(If Required)

Subscribed and sworn to on the \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_\_\_ before me,

(Notary Sign)\_\_\_\_\_

(Print Name) \_\_\_\_\_ Notary Public,

in and for the State of \_\_\_\_\_



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MAJOR NATHAN MCLEOD-HUGHES  
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