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1 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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

4 v.

S2 17 Cr. 548 (PAC)

5 JOSHUA ADAM SCHULTE,

6 Defendant.

Trial

7 -----x

New York, N.Y.
February 4, 2020
10:15 a.m.

8
9 Before:

10 HON. PAUL A. CROTTY,

11 District Judge
-and a Jury-

12 APPEARANCES

13 GEOFFREY S. BERMAN

14 United States Attorney for the
Southern District of New York

15 BY: MATTHEW J. LAROCHE

SIDHARDHA KAMARAJU

16 DAVID W. DENTON JR.

Assistant United States Attorneys

17 SABRINA P. SHROFF

18 JAMES M. BRANDEN

Attorneys for Defendant

19 -and-

20 DAVID E. PATTON

Federal Defenders of New York, Inc.

21 BY: EDWARD S. ZAS

Assistant Federal Defender

22 Also Present: Colleen Geier

Morgan Hurst, Paralegal Specialists

23 Achal Formando-Peiris

John Lee, Paralegals

24 Daniel Hartenstine

Daniella Medel, CISOs, Department of Justice

K243SCH1

1 THE COURT: Swear in the jury panel, please.

2 (A jury of 12 and two alternates were impaneled and
3 sworn)

4 THE COURT: Here's how we are going to proceed. I am
5 going to read some preliminary instructions which will guide
6 you through the trial. We'll then take a short recess, and the
7 parties will make their opening statements, and then we'll
8 start calling witnesses.

9 So, after I give you the instructions, we'll take a
10 short break, and you'll go to the jury room. You can hang up
11 your coats and you give Mr. Gonzalez your contact information
12 and we'll give you our contact information, so we can stay in
13 touch with one another, if anything happens that you want to
14 call to our attention.

15 But ladies and gentlemen, I want to take a few minutes
16 now to give you some initial instructions about this case and
17 about your duties as jurors. After all the evidence is in and
18 the lawyers have summed up, I will give you final instructions
19 and then you can begin your deliberations. I may also give you
20 instructions during the trial, but unless I specifically tell
21 you otherwise, all such instructions, both those I give you now
22 and those I give you later, are equally binding on you and must
23 be followed.

24 Your duty is to find from the evidence what the facts
25 are. You and you alone are the judges of those facts, and then

K243SCH1

1 you apply the law as I give it to you to the facts as you find
2 them to reach your verdict. You have to follow the law,
3 whether or not you agree with it.

4 Now, please remember that nothing I say or do during
5 the course of the trial is intended to indicate or should be
6 taken by you as indicating what your verdict should be. What
7 your verdict should be will be strictly up to you.

8 I've already told you about the charges alleged in
9 this case. The defendant, Joshua Schulte, is charged in 11
10 counts in an indictment that has been filed by a grand jury
11 sitting in this district. The indictment charges that in or
12 about 2016, the defendant allegedly took national defense
13 information from the CIA computer system without authorization,
14 and transmitted that information to WikiLeaks, which posted the
15 information online in 2017. Those charges, the WikiLeaks
16 charges, account for seven of the counts in the indictment.
17 The indictment further charges Mr. Schulte with one count of
18 unlawful disclosure and attempted disclosure of national
19 defense information while he was in the Metropolitan Correction
20 Center, or MCC, a federal detention center. Finally, the
21 indictment charges Mr. Schulte with two counts relating to
22 false statements he made allegedly made to the FBI during its
23 investigation, and one count related to his alleged violation
24 of a protective order entered by the Court in 2017. The
25 government must prove these charges in the indictment beyond a

K243SCH1

1 reasonable doubt.

2 The evidence from which you are going to find the
3 facts will consist of the testimony of witnesses from this
4 witness seat right here, documents and other things that will
5 be received in evidence, and occasionally facts that the
6 parties may agree to, which we call "stipulations."

7 Now, certain things are not evidence, and you should
8 not consider them. I am going to list them for you. First of
9 all, attorneys' arguments are not evidence. The attorneys are
10 not sworn as witnesses, they are not under oath and do not
11 testify. Attorneys' statements and questions are not evidence
12 either.

13 Let me emphasize this again: It is not the question
14 that the lawyer asks. What is important is the witness's
15 answer to the question.

16 Secondly, objections to questions are also not
17 evidence. It is the duty of the attorney for each side of a
18 case to object to the other side's offers of testimony or other
19 evidence that the attorney believes is not properly admissible.
20 You should not be influenced by the objection, or by my ruling
21 on it. If the objection is sustained, you will hear me say
22 "sustained," then you should ignore the question. If I
23 overrule the objection, then you should treat the answer just
24 like any other answer.

25 My job is to rule on what evidence comes in at the

K243SCH1

1 trial, but I have no view on what your verdict should be,
2 because that is strictly up to you, the jury, to decide.

3 If I instruct you that some items of evidence are
4 being received for a limited purpose only, you must follow that
5 instruction, as you must follow all of my instructions. Now,
6 you don't have to worry about this right now, there may not be
7 any limiting instructions in this case. But if there is, I
8 will explain it to you at the time and will give you
9 instructions as clear as I possibly can on what the limitations
10 are.

11 I may well tell you that I'm excluding testimony or
12 tell you to disregard testimony. When I do that, it means you
13 have to follow my instructions and ignore the testimony as it's
14 not in evidence.

15 In addition, anything you may see or hear outside this
16 courtroom is not evidence, and should be disregarded. You are
17 to decide the case solely on the admissible evidence that is
18 presented here in the courtroom.

19 There are two kinds of evidence that I want to review
20 with you, direct evidence and circumstantial evidence. Direct
21 evidence is the direct proof of a fact. An example of that
22 would be testimony of an eyewitness, somebody who actually saw
23 the event as it occurred. Circumstantial evidence is proof of
24 a fact or facts from which you may infer or conclude that other
25 facts exist. Obviously I am going to give you further

K243SCH1

1 instructions on this and in more details on these and other
2 matters at the end of the case, but just keep in mind that you
3 can consider both kinds of evidence, both direct and
4 circumstantial.

5 An important task for you or for every jury is to
6 determine the credibility of the witnesses. And it is going to
7 be up to you to decide which testimony, which witnesses to
8 believe, which witnesses not to believe, and how much of any
9 witness's testimony to accept or reject. Again, in my
10 instructions to you at the end of the trial I will give you
11 some guidelines which I hope will be helpful to you in
12 determining witness credibility.

13 Remember what we discussed earlier. First, law
14 enforcement witnesses' testimony gets no greater or lesser
15 weight because of their law enforcement status. Second,
16 cooperating witnesses can be considered, but as I will instruct
17 you, you should consider their testimony with great care.

18 This is a criminal case. You must keep in mind that
19 there are three basic rules about criminal law that you always
20 have to have in the forefront of your mind. First of all, the
21 defendant is presumed innocent. Secondly, the government has
22 the burden of proof. Thirdly, the government must prove its
23 case beyond a reasonable doubt. Let me go through each of
24 these three important factors.

25 First, as I mentioned to you, the defendant is

K243SCH1

1 presumed innocent until proven guilty. The indictment against
2 the defendant brought by the government is only an accusation
3 and nothing more. It is not proof of guilt or anything else.
4 The defendant, therefore, starts out with an absolutely clean
5 slate.

6 Second, the burden of proof is on the government. The
7 defendant has no burden to prove his innocence or to present
8 any evidence or to testify. Since he has right to remain
9 silent, the law prohibits you from arriving at your verdict by
10 considering that the defendant may not have testified.

11 Third, the government must prove the defendant's guilt
12 beyond a reasonable doubt. Again, I will give you further
13 detailed instructions on this point later in the case. But
14 bear in mind that in this respect, a criminal case is different
15 from a civil case. The criminal standard of proof is beyond a
16 reasonable doubt. In a civil case we use preponderance of the
17 evidence. But here, there is a higher burden, and it's called
18 the burden of beyond a reasonable doubt.

19 From time to time during the trial it may become
20 necessary for me to talk with the lawyers out of the hearing of
21 the jury, either by having a conference at the bench when the
22 jury is present in the courtroom -- that's called a sidebar,
23 you have seen some of that already -- or calling a recess.
24 Please understand that while you are waiting, we are working.
25 The purpose of any conference outside your viewing is not to

K243SCH1

1 keep relevant information from you, but to decide certain
2 procedural issues and how certain evidence is to be treated
3 under the federal rules of evidence and to avoid confusion.

4 Now just a few words about your own conduct as jurors.
5 First of all, do not discuss the case with anyone or permit
6 anyone to discuss it with you. Most of you probably use
7 computers, but do not use your computers to do any
8 investigation in this case. My instructions to not discuss the
9 case includes discussing the case in person, in writing, by
10 phone or electronic means, via text message, e-mail, Facebook,
11 Twitter, blogging or any other form of social media. This even
12 includes discussing the case with your fellow jurors in the
13 jury room while the trial is going on. You cannot deliberate
14 on what your verdict is until after you've been charged by me,
15 and that takes place at the end of the trial. Until then, you
16 simply cannot talk about the case. So you can talk to each
17 other about almost anything, but don't talk about the case.

18 This probably seems a little bit strange to you.
19 Here's the reason. Obviously, the evidence can be only be
20 presented one witness at a time and one exhibit at a time. We
21 don't want you to start talking to each other and reaching
22 conclusions before you had the opportunity to see and hear all
23 of the evidence in the case, listen to the lawyers' summations,
24 and hear my instructions on the law. So that is why we direct
25 you to begin your deliberations at the end, and until that time

K243SCH1

1 not to have any discussions about this case.

2 Think of the case as something like a painting when
3 you cannot tell from one stroke or one color what the painting
4 will look like. You have to wait until it's finished to make a
5 judgment, and that's what we ask you to do.

6 If at any time during the course of the trial any
7 person attempts to talk to you or communicate with you about
8 the case, either inside or outside the courthouse -- and I
9 certainly hope that doesn't happen -- you should immediately
10 report such an attempt to me. Don't bring the matter to the
11 attention of any other jurors, just send me a note directly.
12 In the same way, if anything should happen involving any of you
13 that is of an unusual nature, when you think of something the
14 Court should be told about, do not discuss it with any other
15 juror. Simply give my deputy, Mr. David Gonzalez, a note to
16 that effect that you want to speak to me about it, and I can
17 hear what it is and what you have to say. Of course, I do not
18 expect anything unusual or improper to happen. But if it does,
19 bring it to my attention.

20 Also, lawyers and other participants at the counsel
21 table have been instructed not to have any communication with
22 you as jurors. That's the rule. You may not say hello or even
23 wave. That goes for you, the lawyers and the witnesses. In
24 this courthouse you may see people in the elevators, so if you
25 run into one another, please don't acknowledge them or expect

K243SCH1

1 them to acknowledge you. They are under instructions not to
2 have any communication, and they are going to observe that
3 rule.

4 If at any point in the trial you recognize someone in
5 the courtroom, including a friend or family member, please let
6 me know immediately. If this occurs while the trial is in
7 session, please simply raise your hand.

8 Please don't read or listen to anything touching upon
9 this case in any way. That means don't read any newspaper
10 publicity, TV news. If you see it, ignore it. Don't try to do
11 any research on your own or conduct your own investigation.
12 This means, for example, that you should not consult a
13 dictionary, search the internet, website or blogs or use any
14 electronic tools to obtain information about this case. If you
15 see something about the case in the newspaper, you must not
16 read it. You must avoid watching television discussions about
17 this case or issues involved in this case. Your sworn duty is
18 to decide this case solely and wholly on the evidence presented
19 in this courtroom.

20 If you wish, you may take notes while the evidence is
21 being presented to you. This is permitted because some people
22 find that taking notes helps them focus on the testimony being
23 given. You should not try to summarize the testimony. We have
24 excellent court reporters who take down everything said
25 throughout the trial. Your job is to listen to the testimony,

K243SCH1

1 and assess the credibility of the witnesses. If do you take
2 notes, do not let it distract you from your task. Moreover,
3 your notes are for your private use only as a way to help you
4 recall the testimony when you begin your deliberations. Your
5 notes are not entitled to any greater weight than the
6 recollection of a juror who did not take notes. Finally, you
7 may not take your notes away from the courtroom. Please leave
8 them in the jury room at the end of each court day.

9 Let me tell you again how important your service is
10 and how much we appreciate it. During a trial, all of us have
11 to be here before any work can be done. That includes the
12 attorneys, the witnesses, the court reporters, the judge, and
13 you the jury. If one person is missing, everything stops.
14 That's what makes it a little bit different than work. This is
15 not a situation where you can simply call in sick. There are
16 of course extraordinary circumstances that may excuse you from
17 serving on this jury. But in all other circumstances, we need
18 you to be here every day, and as best you can on time. I
19 understand that this may impose a burden, but as I have said,
20 this is an important public service and one that is greatly
21 appreciated.

22 I start my trial day at 9 o'clock in the morning
23 except for Fridays when we'll not sit for trial. About a half
24 an hour before we start, we'll open up the jury room and
25 provide you with a light breakfast. We also provide you an

K243SCH1

1 afternoon snack when we take our afternoon break. We cannot
2 provide you with lunch.

3 On Monday through Thursday, our first session will go
4 from 9 in the morning until 11:15, at which point we'll take a
5 10 or 15 minute break. We'll take a longer break of about 30
6 minutes around 1 p.m., and finish the day at 3 o'clock. The
7 court will not sit for trial on Fridays.

8 Now, here's how we're going to proceed. The
9 government will make an opening statement, which is an outline
10 of what it hopes to prove and to help you understand the
11 evidence as it comes in. Next, the defendant may make an
12 opening statement, but he does not have to. And please
13 remember, as you listen to the opening statements by the
14 lawyers, that these statements are not evidence. Then the
15 government will start presenting witnesses and the defense may
16 cross-examine those witnesses. Following the government's
17 case, defendant may, if he wishes, present evidence, but he
18 does not have to do so. After all the evidence is in, each
19 side has the opportunity to get up again, present their closing
20 arguments to you. In these arguments they're going to
21 summarize and interpret the evidence for you, and then of
22 course I will instruct you on the law. After all that is
23 completed, you'll retire to begin your deliberations on this
24 case.

25 Now for some housekeeping matters. You probably

K243SCH1

1 already met David Gonzalez, my courtroom deputy. You're going
2 to be working with Mr. Gonzalez who will greet you in the
3 morning and make sure you're escorted in and out of the
4 courtroom. He will give you the notepads if you want to take
5 notes. If you have any troubles or problems, please see
6 Mr. Gonzalez.

7 I am assisted by my two law clerks, Laura King and
8 Matthew DeLuca, and my court reporters are Rebecca Forman and
9 Carol Ganley.

10 That concludes my preliminary instructions. We'll
11 take our morning recess now for about 15 minutes. You can hang
12 up your coats and we'll give you notepads if you want notepads,
13 then we'll resume about quarter to 11. Thank you very much.

14 (Jury excused)

15 THE COURT: Who is opening for the government?

16 MR. DENTON: I am, your Honor.

17 THE COURT: How long are you going to be?

18 MR. DENTON: 15, 20 minutes tops.

19 THE COURT: Ms. Shroff, who is opening for
20 Mr. Schulte?

21 MS. SHROFF: I am, your Honor.

22 THE COURT: How long will be you be?

23 MS. SHROFF: I don't know. It depends on what
24 Mr. Denton says, but between 7 and 10 minutes.

25 THE COURT: See you in 15 minutes.

1 (Recess)

2 (In open court; jury present)

3 THE COURT: Mr. Denton.

4 MR. DENTON: Thank you, your Honor.

5 Ladies and gentlemen, this case is about the single
6 biggest leak of classified national defense information in the
7 history of the CIA, the Central Intelligence Agency. On
8 March 7, 2017, the website WikiLeaks began a catastrophic
9 public disclosure of sensitive national security secrets.
10 Secrets that this man, Joshua Schulte, the defendant, stole
11 from a top secret CIA network. Files revealing the custom
12 built classified cyber tools that the CIA uses in our national
13 defense, tracking terrorists, collecting intelligence overseas
14 to protect the United States.

15 The leak was instantly devastating. Critical
16 intelligence gathering operations all over the world came to a
17 crashing halt. CIA officers overseas were exposed. Allies
18 wondered if America could be trusted to safeguard intelligence
19 they shared with us. Years of work and millions of dollars
20 developing those tools went up in smoke, because secret tools
21 to gather intelligence only work if the targets don't see them
22 coming. And now those tools were all over the internet.
23 Digital weapons we had built, now out there for anyone to turn
24 against us.

25 For the CIA, it was the ultimate act of betrayal by

1 one of their own. Joshua Schulte was a CIA officer. He worked
2 for the very same part of the agency that created the national
3 security information he stole. Joshua Schulte violated his
4 oath to protect our country and safeguard those secrets. He
5 violated the law.

6 The defendant didn't do this out of any false
7 idealism. He's not some kind of whistleblower. He did it out
8 of spite. He did it because he was angry and disgruntled at
9 work. He did it to start what he in his own words called "an
10 information war," a war against the CIA he felt had wronged
11 him.

12 His information war didn't stop there. He continued
13 to wage it even after the FBI arrested him for stealing those
14 top secret files. From jail, he got an encrypted cell phone,
15 leaked more classified information, and plotted a campaign to
16 send even more CIA secrets to WikiLeaks.

17 What Joshua Schulte did wasn't just revenge, ladies
18 and gentlemen, it was a crime. And that's why we're here
19 today.

20 The evidence in this trial will prove the defendant
21 create committed serious federal crimes, crimes of espionage,
22 stealing secrets from the CIA. The evidence will prove that he
23 tried to commit more espionage by leaking even more secrets
24 from his jail cell. It will prove crimes of computer hacking
25 when he broke into parts of the CIA's network. It will prove

1 that the defendant obstructed justice, lied to the FBI, and
2 violated orders of this Court.

3 As Judge Crotty said, over the next few minutes I'll
4 give you a preview of what the evidence in this trial will
5 show. Evidence that you will see in this man's own words, hear
6 from his co-workers, reading in logs of his computer hacking.
7 Evidence that will fit together to reveal the whole truth about
8 this man's crimes.

9 You'll learn that Joshua Schulte used to work as a
10 software developer, in an elite group at the CIA where
11 programmers built sophisticated cyber tools to support national
12 defense and intelligence operations overseas. Schulte and his
13 fellow CIA officers in that group worked in a secret building,
14 protected by armed guards, accessed using special badges and
15 codes, inside offices that are literally vaults, combination
16 locks on the doors. Everyone who worked there had a top secret
17 security clearance vetted by CIA investigators to be sure that
18 they could be trusted with the precious secrets of our national
19 defense.

20 Behind those armed guards, those combination locks,
21 those vault doors, Schulte's group used a secret CIA computer
22 network to develop their cyber tools. It wasn't just a secret
23 network; it was a special one. For Schulte and the other
24 developers to be able to perform their work, the network gave
25 them freedom to design cyber tools, to share information, to

1 work together. Their work was to exploit vulnerabilities in
2 the computers of America's adversaries, so their network had to
3 be set up to let them do. In order for the system to work, the
4 CIA had to be able to trust that group of elite programmers.

5 In 2015, Joshua Schulte was given a special level of
6 trust within the CIA. He was made a system administrator for
7 software on the CIA's developer's network. As you'll hear him
8 say on tape, he had super access. The kind of access normal
9 developers didn't have. The kind of access that let him
10 control all of the sensitive intelligence projects on that
11 network, and even let him control who else had access to those
12 project. As an administrator, Schulte helped make backups of
13 the systems that he and the other programmers worked on.
14 Backups that were saved every day in case of some catastrophe
15 that meant the system had to be restored. But the real
16 catastrophe was Joshua Schulte, because he breached the special
17 trust the CIA placed in him.

18 Why did he do it? Why did Joshua Schulte start an
19 information war? Because he was angry. You'll learn that in
20 2015 and 2016, Schulte started having problems at work. He got
21 into arguments, personal disputes with other people in his
22 branch. And you will learn that when of those arguments got
23 out of hand, Schulte decided to retaliate against another
24 developer, by falsely accusing his co-worker of threatening to
25 kill Schulte. Now, the CIA investigated that allegation

1 thoroughly and determined it was baseless. But that just made
2 Schulte mad. Even when the CIA decided to separate Schulte and
3 his co-worker by reassigning them to different branches, he
4 just became angry. Angry at his bosses, angry at the whole
5 agency, angry that the CIA didn't take his side. So he started
6 breaking the rules. Critical rules that limit access to
7 sensitive national security secrets. Rules that Joshua Schulte
8 didn't think should apply to him. So he abused the trust that
9 he had been given as an administrator, secretly used his super
10 access to give himself control over sensitive projects he had
11 expressly been told he wasn't allowed to have.

12 Now, you won't be surprised to learn that his network
13 tampering set off alarm bells at the CIA. The agency found out
14 what Schulte had done, and it was such a serious violation,
15 that the CIA decided they had to lock down the top secret
16 network that he had accessed. So they changed passwords, they
17 tried to take away his super access, but they left a back door
18 unlocked. A back door Schulte knew about. Schulte got a
19 warning about what he had done from his supervisors at the CIA.
20 They told him they knew he had abused his access, and he
21 admitted it. He signed a memo agreeing never to do it again.
22 They ordered Schulte to verify that he no longer had that super
23 access, and what did he do? He lied. You'll see that at the
24 very moment that he sent an e-mail saying that he had checked,
25 he had no more super access, he knew that back door was still

1 open.

2 Two days later, Schulte was told that parts of the top
3 secret system he worked on were going to be moved on to a new
4 server. That was important news for Schulte. Because when
5 those programs moved on to a new server, that back door to his
6 secret access was going to be shut. And so the evidence will
7 show that that day, on the evening of April 20, 2016, Joshua
8 Schulte stole the preciously guarded national security secrets
9 that WikiLeaks later posted on the Internet. On the evening of
10 April 20, Schulte used that back door, access he knew he wasn't
11 supposed to have, to do something called a reversion. Kind of
12 like restoring a phone. He used a backup copy to take the
13 system back in time to before the CIA tried to lock down the
14 system. Back to a time when Schulte had total administrative
15 control. For over an hour, from the computer sitting at his
16 desk at CIA, Schulte was in that system secretly restoring his
17 super access, giving himself back all the control he had before
18 it was taken away. Restoring his access to the backups that
19 stored copies of the entire system.

20 Remember that every day the CIA backed up all the
21 critical work that Schulte and the other developers were doing,
22 so that if something happened, it won't be lost forever. Same
23 way you back up a hard drive in case your computer crashes.

24 And the evidence will show that shortly after Schulte
25 had broken back into the system, he stole an entire backup, a

1 copy of all those secrets. And not just any backup, actually
2 one that meant something to him. He stole the backup from
3 March 3, 2016, the very day that Schulte felt the CIA had
4 wronged him, by dismissing his false accusations against his
5 co-worker. The exact backup, the exact secrets, put out by
6 WikiLeaks.

7 After stealing the backup, Schulte tried to cover his
8 tracks. During that hour on April 20, when he took the system
9 back in time, Schulte started carefully deleting every log file
10 that kept track of what he had done while he was in the system.
11 After destroying that evidence, he unwound the reversion.
12 Schulte restored the system to how it had been just before he
13 hacked in, erasing that hour of time as if it hadn't existed.
14 Trying to cover his tracks, that proved how he stole our
15 nation's secrets.

16 The evidence will prove that Schulte sent that stolen
17 classified backup, a copy of all the sensitive projects of the
18 CIA's programming group, to WikiLeaks. Because the very same
19 backup that he stole that day, was exactly what WikiLeaks
20 posted on the internet.

21 And in the days that followed April 20, Schulte
22 started doing everything he needed to do to send that stolen
23 backup to WikiLeaks. He downloaded programs on his home
24 computer that let him hide his identity on the internet. He
25 bought computer equipment to copy hard drives and transfer data

1 without leaving a record on a computer. He researched how to
2 verify if huge files had transferred successfully over the
3 internet, and how to destroy evidence at home, the same way he
4 did at the CIA, like when he downloaded a program to nuke his
5 hard drive.

6 And you will see that when all was said and done, two
7 weeks after his digital break in at the CIA, after he had sent
8 that precious trove of national defense information to
9 WikiLeaks, Schulte tried to completely reformat his entire home
10 computer. He did it in another attempt to wipe the computer
11 clean of any remaining evidence.

12 And you'll learn that those things Schulte did on his
13 home computer are exactly what WikiLeaks tells people to do
14 when transmitting stolen secrets.

15 A few unhappy months later, Schulte finally resigned
16 from the CIA. He took a job here in New York. And he was here
17 on March 7, 2017, when WikiLeaks started to post the sensitive
18 national security information that he stole.

19 After the leak went public, the FBI immediately
20 started to investigate. Agents interviewed hundreds of people,
21 including Schulte.

22 (Continued on next page)

1 MR. DENTON: And Joshua Schulte thought he could do
2 the same thing that he tried to do at the CIA, talk his way out
3 of it. And so he lied again. Lied to the FBI. Tried to
4 obstruct the investigation by sending them down false paths.
5 But the evidence will show that when that didn't work and
6 Schulte was arrested and put in jail to stand trial, he decided
7 to escalate his information war. He got an encrypted cell
8 phone in jail, started writing a report, promising to give them
9 classified information. He created accounts on social media to
10 post articles he had written that had more secrets in them.

11 The evidence will show that Joshua Schulte was so
12 desperate to wage his information war that he even violated a
13 court order to conduct it. Twice. And after this judge
14 specifically told him not to, he sent more sensitive material
15 from the government to a reporter. In notebooks he kept in
16 jail, he wrote a detailed battle plan for the next campaign in
17 his information war. But before Schulte could launch that new
18 campaign, the FBI caught him in the act. They searched the
19 prison. They found his secret phone. They found his written
20 plan to destroy evidence and leak secrets, and they put a stop
21 to it, preventing Schulte from spilling even more of our most
22 precious guarded intelligence.

23 Now, ladies and gentlemen, that is just an overview of
24 what the evidence in this trial is going to prove. Let me say
25 a little bit about how we're going to prove it, because the

1 evidence is going to come in many forms. You'll hear testimony
2 from several different kinds of witnesses, like Schulte's
3 coworkers at the CIA, covert officers responsible for
4 developing those cyber tools. They'll tell you about their
5 group and its important work for our national defense and about
6 that secret network they used to do that work. They'll talk
7 about Schulte's arguments in the workplace, his spiral out of
8 control, his quest for revenge. They'll talk about how they
9 found Schulte's abuses of his administrative control on their
10 secret network, his violations of the trust necessary to do
11 their vital work, and how they tried to keep him from doing it
12 again.

13 You're also going to hear from agents, experts, from
14 the FBI who investigated Schulte's crimes, specialists in cyber
15 crimes, digital forensics, counterintelligence. They'll tell
16 you about the investigation. You'll learn from these witnesses
17 that the FBI analyzed the classified information that was
18 posted on WikiLeaks and they compared it to what was on that
19 CIA network, and you'll see how they determined that the stolen
20 information posted by WikiLeaks came from one spot, that same
21 specific March 3 backup of the system, the very backup that
22 Schulte stole, a backup that very few people knew where it was
23 or even that it existed. But you'll learn that Joshua Schulte
24 knew exactly about it because he helped create it and so he
25 knew exactly how to steal it.

1 Those forensic experts will also walk you through what
2 Schulte did on April 20, 2016, the day he stole those secrets.
3 Even though Schulte tried to delete any trace of his theft of
4 sensitive, classified information, his footprints were left
5 behind. The FBI's experts found them in the recesses of the
6 computer memory of Schulte's own desktop at the CIA, in spaces
7 where bits of data stayed behind even when Schulte tried to
8 erase them.

9 You're also going to see a lot of exhibits, things
10 like documents and physical evidence. For example, you'll see
11 emails and all the records of Schulte's personnel disputes at
12 the CIA and the things the CIA did to try and address them.
13 You'll see the log files from Schulte's own computer showing
14 him sending the commands to take their classified system back
15 in time to get his access back, to delete evidence of what he
16 had done, to undo his reversion to make it seem like it never
17 happened. You'll see data about that March 3 backup for the
18 exact source of the national-security secrets posted on the
19 internet, showing that the last time anyone accessed that file
20 on the CIA's network was the evening of April 20, 2016, right
21 in the middle of Schulte's digital break-in.

22 You'll see video of Schulte when he was in jail using
23 that secret, smuggled cell phone. You'll read encrypted emails
24 he wrote to a reporter attaching classified information and
25 documents that Schulte had been ordered by the Court not to

1 disclose.

2 And finally, you're going to see and hear Joshua
3 Schulte's own words. You'll watch the defendant admit on video
4 to having abused his administrative access, and you'll see him
5 declare to a CIA investigator that he wanted his supervisors to
6 be punished for the ways that he thought they had wronged him.
7 You'll read notebooks that the defendant wrote in jail, his
8 plans for disclosing even more sensitive national-defense
9 information and long drafts he wrote of what he was planning to
10 disclose, drafts he wrote revealing secret CIA bases and
11 operations conducted by the CIA overseas, precious technical
12 details about the way the CIA collects intelligence on
13 America's adversaries, all written by Schulte as part of his
14 plan for leaking to the world.

15 And you'll read in his own words his plan for
16 information war, things he wrote, like "I will look to break up
17 diplomatic relationships, close embassies"; things he wrote,
18 like, "Top secret? Fuck your top secret"; and things like,
19 "Send all your government secrets here, WikiLeaks."

20 Now, as I said, and Judge Crotty told you as well,
21 this is just a preview to give you some context for what you're
22 going to see and hear over the next few weeks. At the end of
23 this trial, after all the testimony is in and the exhibits have
24 been received, we'll get another opportunity to talk to you
25 about how the evidence specifically proves the defendant's

1 guilt. And after that Judge Crotty's going to instruct you on
2 the law. For now, I'm just going to ask you to do three
3 things.

4 First, pay close attention to all the evidence.

5 Second, carefully follow any instructions Judge Crotty
6 gives you on the law.

7 And finally, just use your common sense, the same
8 common sense you use every day to size people up, make
9 decisions. Apply that common sense when you assess the
10 evidence that you're going to see and hear here. If you do
11 those three things, you will give Joshua Schulte a fair and a
12 just trial. And if you do those three things, you will reach
13 the only conclusion that is supported by all that evidence,
14 that the defendant is guilty.

15 Thank you.

16 THE COURT: Thank you, Mr. Denton.

17 Ms. Shroff.

18 MS. SHROFF: The evidence does not fit. There is no
19 battle plan. There is no information war. The prosecution
20 here simply has it wrong. Mr. Schulte has not committed these
21 crimes, and at the end of the day, you will see that he is not
22 guilty.

23 Good morning, ladies and gentlemen. Along with
24 Mr. Zas and Mr. Branden, we represent Mr. Schulte, and I'm here
25 to tell you what really happened on March 7 of 2017, and the

1 time frame before that.

2 On March 7, 2017, a trove -- literally thousands and
3 thousands -- of documents, CIA documents, CIA information,
4 showed up on WikiLeaks. As you just heard the prosecutor say,
5 these documents were important to the CIA. These documents
6 were about the CIA's secret electronic surveillance programs,
7 documents that the CIA never wanted the world to know about and
8 certainly not documents that they would want published on
9 WikiLeaks.

10 This was front-page news. It was front-page news all
11 over the world, and it was news to the CIA. The CIA had no
12 idea -- no idea at all -- how these documents were leaked.
13 They did not know how, they did not know when, they did not
14 know why, and they certainly did not know who had done it.
15 Just bear in mind the first time they find out is on March 7,
16 2017. And the reality is, today, the CIA still doesn't know
17 these things, and nor does the government.

18 At the time of the leak and ever since, there was
19 tremendous pressure, nothing but heat and pressure, to hold
20 someone responsible, someone responsible for this leak, someone
21 to blame, someone to whom the government can point the finger,
22 to take the heat off the CIA for not knowing how these
23 documents ended up on WikiLeaks. So the CIA blamed Josh
24 Schulte. He's an easy lay-up for them, you will see. The
25 evidence will show he's an easy target and an easy lay-up for

1 the CIA. But they're wrong. Mr. Schulte is innocent, and
2 throughout this trial, you will come to that same conclusion.

3 I remind you now, as Judge Crotty will remind you
4 again, Mr. Schulte does not bear any burden of proof. He does
5 not have to prove to you that he's innocent. It is the
6 government's burden to prove to you, beyond all reasonable
7 doubt, that he is guilty of each one of the 11 counts he is
8 charged with, and they will never be able to do it because
9 Mr. Schulte is simply not guilty. After almost three years,
10 this massive CIA leak still remains a mystery, a mystery of who
11 did it, how it was done, when it was done.

12 You see, the CIA had to work backwards to go back and
13 try to explain, try to figure out exactly how these documents
14 were copied, how they were taken, how they were taken out of
15 the CIA's system without anyone knowing how they got to
16 WikiLeaks and when and why it happened. You will hear the
17 government try to piece together a string of facts, and you
18 will see that they will not be able to give you credible
19 evidence that Mr. Schulte is the one who did this.

20 So let's start with how. The first question is how.

21 You're going to learn that the CIA and the FBI still
22 don't know how. You've heard now Mr. Denton say that these
23 documents were kept under lock and key; they were so secure
24 that the CIA's computer system and the CIA's building were
25 guarded, and its system, which is called the DEVLAN system, was

1 super secret.

2 It wasn't. It simply wasn't. The CIA's DEVLAN system
3 was not adequately protected. In fact, it's quite the
4 opposite. It was wide open, wide as the Sargasso Sea, and when
5 you hear from the CIA witnesses, you will hear it was called
6 the wide, wide west. People who worked at the CIA knew it
7 wasn't a protected system. It was a system that allowed
8 hundreds of CIA employees to have access, not just CIA
9 employees but third parties and individuals who contracted with
10 the CIA, who contracted with the CIA to do work for the CIA.
11 And this is not even to mention the many foreign countries and
12 the many foreign agents who all vie with each other -- and we
13 all know this, they all vie with each other to try and get each
14 others' information.

15 And it isn't just that the system was unprotected,
16 that it wasn't super secure or even adequately secure; it's
17 that everybody knew that it wasn't secure. People at the CIA
18 knew that the computer system was wide open; it lacked
19 controls, and any one of these people -- literally hundreds of
20 people, any one of these people could have and did have the
21 opportunity to take that information. And remember again that
22 information had been gone for almost a year before the CIA even
23 realized that it had been gone, that it had been taken. For
24 God's sakes, a whole year. They went a whole year without
25 knowing that their super-secure system had been hacked.

1 In the prosecution's opening, they gave you a theory.
2 They told you this is how they think Josh Schulte took it.
3 This is how they think Josh Schulte stole the information, and
4 that is what it is. It's their theory. It does not come with
5 proof beyond a reasonable doubt. And more than that, you will
6 see as the evidence unfolds that this is pure speculation on
7 their part.

8 Let's talk about when this happened.

9 Does the government even know when this happened?
10 They claim to, but let's just examine that. All they know is
11 WikiLeaks published the information on March 7, 2017. The
12 government's theory is that the information was stolen almost a
13 year before that, leaked to WikiLeaks, and for a whole year,
14 WikiLeaks just sat on the information. The government wants
15 you to believe that this information -- this is national
16 defense information that everybody wanted, that the CIA worked
17 so very hard to keep secret -- was released to WikiLeaks and
18 WikiLeaks sat on that information -- sensational, mind-blowing,
19 news-creating information -- for a year. Does that make any
20 sense to you? An organization that wants to spread
21 information, give out the news, sits on information for a whole
22 year.

23 When you have an explosive story, think about The New
24 York Times or The Wall Street Journal, they have a mind-blowing
25 story, do they sit on it for a year? It makes no sense. You

1 do not sit on information to go stale for a year. You release
2 the information you have.

3 Not only is the government's story implausible, it
4 keeps changing. And you will hear about this. You will hear
5 that the government and the FBI agents first said that the data
6 was taken from the CIA in March of 2016. They identify for you
7 a very specific time period of when they think this data was
8 stolen, March 7th or 8th of 2016. But now they will tell you,
9 and now they have told you, in fact, that their first theory
10 was wrong.

11 You just heard the prosecutor say that the
12 information, according to him, was stolen in April. In fact,
13 he gives you a very specific date: April 20 of 2016. So which
14 one is right? Was it March? Was it April? They don't know.
15 They do not know, and you will learn that the CIA actually has
16 no idea when this information, when this data was taken from
17 the CIA. And I remind you yet again that but for WikiLeaks's
18 publication of this data, it is likely that the CIA even today
19 would not know that their data was taken.

20 So that brings us to the last questions, the questions
21 at the heart of this case: who and why? Lots of people -- lots
22 of people -- at the CIA, very sophisticated, clever, smart
23 computer nerds just like Mr. Schulte have all the skill set to
24 do exactly what the government tells you to believe Mr. Schulte
25 did. I want to remind you again and again that the CIA itself

1 has no sense of what exactly was taken. So do they tell you
2 who and why? No. They work backwards and they find someone to
3 blame, and they need to blame someone quickly because they've
4 sat on this, looked foolish for not having realized for over a
5 year that their crown jewels were stolen.

6 You think the CIA can just say a year later: "Oops.
7 Sorry. We messed up. We don't know how this got out there.
8 Forgive us, and let's all move on"? No. Obviously they
9 cannot. So what do they say? They say it was Josh Schulte,
10 because as I've already mentioned to you, he is an easy target.

11 Why? He's an easy target because when he worked for
12 the CIA, he antagonized almost every single person there. He
13 antagonized his colleagues. He antagonized management. He was
14 a difficult employee. He really was a difficult employee, but
15 being a difficult employee does not make you a criminal. A
16 difficult employee does not translate to being a traitor. A
17 difficult employee does not translate to somebody who would
18 sell out their country. Josh Schulte's not a traitor.

19 So, for a minute, let me just talk to you about who
20 Josh Schulte is. Mr. Schulte was born in September of 1988.
21 He was born in Lubbock, Texas. He's 30 years old. He's one of
22 four boys born to Roger and Deanna Schulte.

23 From a young age, Mr. Schulte showed a strong interest
24 in math and computers. He was a smart kid, and he really
25 wanted to serve his country. He went to University of Texas,

1 applied for an internship and was an intern at the NSA, the
2 National Security Agency. His dream was to be hired by the
3 CIA, and in 2010, his dream came true. He was hired by the
4 CIA. He worked on developing programs in counterterrorism. He
5 did important work, tracking down terrorists; wrote programs
6 and tools to enable the United States to get rid of terrorists.
7 By all accounts, he was talented. He was a talented,
8 hardworking employee, and he worked on some important CIA
9 projects.

10 He was also a pain in the ass to everybody at the CIA,
11 and by the middle of 2016, Mr. Schulte became very dissatisfied
12 with his job and his colleagues and his management at the CIA.
13 He had disputes with his colleagues. He didn't like the
14 disputes. He didn't like the colleague. He complained to
15 management. Management took the colleague's side, and yes,
16 Mr. Schulte was unhappy about that, so unhappy that he
17 eventually decided he was going to leave his dream job and move
18 on. And he moved on. He found a job with Bloomberg. He left
19 the CIA, moved to New York, and that was in November of 2016,
20 November 10, 2016, four months before there's any leak of this
21 information onto WikiLeaks.

22 Unlike the CIA, Mr. Schulte had moved on from them.
23 At his new job, he made \$200,000 a year, lived on 39th Street
24 and was doing fine. This is the person that the CIA wants you
25 to believe, that the government wants you to believe, a man who

1 worked for government his entire life and who dedicated his
2 time and his energy to furthering the goals of the United
3 States, this is the man that they want you to believe was so
4 upset about fights at the CIA that he would literally throw
5 everything under the bus -- not just everything in terms of the
6 United States but everything that he now had in November of
7 2016 -- a new job, a new life, a new city; he would throw it
8 all under the bus because management had not supported him over
9 a year ago.

10 Look, they know that they have problems with the
11 WikiLeaks counts, as the judge has identified them, and you
12 will see those problems, and you will reach the only verdict
13 you can, which will be a verdict of not guilty, which is why
14 the government will focus a large part of its evidence on what
15 they will call the MCC counts. You will see that they have no
16 evidence that Mr. Schulte was ever in contact with WikiLeaks.

17 You will see that they have no evidence that WikiLeaks
18 was the first entity, person, government, foreign agency to get
19 that information. They will be able to give you no such
20 evidence, so they will shift. And they will shift to what they
21 call his quote/unquote information war. They are going to try
22 and convince you that Mr. Schulte is that person because that
23 is all that they have, and they will give you evidence in the
24 hope that it will make you think of Mr. Schulte as a bad
25 person.

1 Now, I've said this before and I'll say it again.
2 Mr. Schulte is a difficult man. You will hear that after
3 Mr. Schulte was incarcerated at the MCC, he was desperate. He
4 really was desperate, desperate to prove that he was innocent.
5 He wanted the world to know he wasn't this person, he was not
6 the man who stole the information, he was not the man who
7 released the information to WikiLeaks, he had nothing to do
8 with that theft.

9 So what does Mr. Schulte do?

10 Mr. Schulte tries to go around and show the world that
11 he is innocent. And yes, he gets a cell phone, he keeps a
12 journal, he contacts the media to tell them, Look, I'm wrongly
13 arrested; I did not do this. That is what Mr. Schulte does
14 while sitting in the MCC. Does that mean that he stole the
15 information from the CIA? No.

16 Think about this. Think if you were Mr. Schulte,
17 wrongly accused, if you were in his shoes, sitting at the MCC
18 day after day hearing people say, This is the man, this is the
19 traitor, this is the guy who stole, would you be so desperate?
20 Would you be so upset? Would you be the person who reaches out
21 and says I did not do this? That is what Mr. Schulte did.

22 You may not like what Mr. Schulte did from the MCC,
23 but this case really isn't about whether or not you like
24 Mr. Schulte. It really isn't about whether or not Mr. Schulte
25 is a difficult person. It really isn't about whether or not

1 Mr. Schulte was liked or disliked. If you pay attention to the
2 evidence, if you listen to the evidence on the WikiLeaks
3 counts, you will be no different than me. You will see that
4 the evidence simply does not show that Mr. Schulte had anything
5 to do with taking the information from the CIA and releasing it
6 to WikiLeaks.

7 The CIA still does not know, and as you hear the
8 government put in evidence after evidence, you will see that
9 they will never be able to tell you how the evidence was taken,
10 whether, in fact, WikiLeaks was the only entity that got it.
11 They will certainly never be able to show any relationship
12 between Mr. Schulte and WikiLeaks. And for all of those
13 reasons, if you do as the government said -- just use your
14 common sense -- you will reach the only verdict that is proper
15 in this case, a verdict of not guilty.

16 Thank you for listening to me.

17 THE COURT: Thank you, Ms. Shroff.

18 Call the first witness.

19 MR. DENTON: Your Honor, the government calls Paul
20 Rosenzweig.

21 PAUL ROSENZWEIG,

22 called as a witness by the government,

23 having been duly sworn, testified as follows:

24 THE COURT: Please sit down, Mr. Rosenzweig. Pull
25 yourself right up to the microphone.

1 THE WITNESS: Thank you. Can I get a glass of water?

2 Thank you very much.

3 THE COURT: Mr. Denton.

4 DIRECT EXAMINATION

5 BY MR. DENTON:

6 Q. Good morning.

7 A. Good morning.

8 Q. Mr. Rosenzweig, where do you work?

9 A. I work in Washington, D.C.

10 Q. And what do you do?

11 A. I principally have three jobs right now. The main one is
12 I'm a principal in my own private consultancy and law firm,
13 where I practice national security, cyber-security law as well
14 as some criminal defense law.

15 Q. And what are your other positions?

16 A. I'm also a senior fellow at the R Street Institute, which
17 is a think tank in Washington, D.C. We spend our time trying
18 to propose new policies for consideration by the government.

19 And my third job is as an adjunct professor -- professorial
20 lecturing was the official title -- at the George Washington
21 University School of Law.

22 Q. Is your current work in any particular field or specialty?

23 A. About 95 percent of what I do these days is in the broad --
24 broadly defined area of cyber-security law and policy, issues
25 relating to the security of systems and the policy rules

1 relating to how we might better protect them.

2 Q. Could you tell us a little more about your professional
3 background?

4 A. Well, I graduated law school in 1986, and after a
5 clerkship, I spent the first seven years of my career as a
6 prosecutor in the Department of Justice in Washington, D.C.
7 Since then, I've been in and out of government and private
8 practice, back and forth. I did a stint as an investigative
9 counsel at a -- with a committee of Congress and the House of
10 Representatives. I was part of the independent counsel
11 investigation that looked at President Bill Clinton's conduct.
12 Most recently, in government, from 2005 to 2009, I was a deputy
13 assistant secretary for policy at the then brand-new Department
14 of Homeland Security.

15 Q. Mr. Rosenzweig, are you familiar with the website
16 WikiLeaks?

17 A. Yes, I am.

18 Q. How have you come to know about WikiLeaks?

19 A. Well, WikiLeaks has fed into my professional activity and
20 interests in three sorts of ways.

21 First, because I study and work in the national-security
22 field, I have been interested in and studied WikiLeaks because
23 of the effect that certain leaks of classified information on
24 WikiLeaks have affected national security of the United States.

25 Second, as a teacher of cyber security, I've been

1 interested in the ways in which information has been passed on
2 to WikiLeaks, I guess is the best way to say it, from where,
3 from what sources it came and how it gets to WikiLeaks and then
4 what they do with it.

5 Third, I've also had a position for a number of years as an
6 adjunct lecturer at the Northwestern University School of
7 Journalism, the McGill School of Journalism. And so, I've been
8 interested in WikiLeaks as a journalism phenomenon in terms of
9 how the disclosure of classified information in that forum has
10 kind of changed the nature of journalism, or is trying to
11 change the nature of journalism, today.

12 Q. Have you done research on WikiLeaks?

13 A. Yes, I have.

14 Q. How do you conduct research on WikiLeaks?

15 A. Well, because WikiLeaks is a relatively closed organization
16 with only a few known public members, most of the information
17 that you study about WikiLeaks to try and understand what it's
18 doing and how it operates comes from public sources. The most
19 prominent of them, of course, is WikiLeaks itself. They
20 operate a website, WikiLeaks.org, and a Twitter that they said
21 are their public statement sources, so anything that's on
22 either of those is official. You can listen to their founder,
23 Julian Assange, who frequently speaks in public about WikiLeaks
24 and his intent with respect to that organization.

25 Then, of course, there are lots of other areas in which

1 people have written about WikiLeaks and analyzed it, ranging
2 from reviews of certain of their prior large-scale disclosures,
3 publications that are related to national security, assessments
4 of what those mean and how they've affected the United States.
5 And then there's lots of secondary literature, people who
6 write, have written, about what they think WikiLeaks's intent
7 and meaning is and how it's going to do, why it does what it
8 does.

9 Q. Have you published any work related to WikiLeaks?

10 A. I have.

11 Q. Generally speaking, what have you published?

12 A. Back in 2010, 2011, when WikiLeaks first came to
13 prominence, I published a few articles about the application of
14 criminal law to WikiLeaks and potentially to Julian Assange and
15 how that might interact with First Amendment considerations.

16 In 2014, along with two of my teach -- co-faculty members
17 at the McGill School of Journalism, I co-edited a book that was
18 published by the McGill School of Journalism and the American
19 Bar Association, the title of which was Whistleblowers, Leaks,
20 and the Media, which was principally about WikiLeaks and also
21 about Edward Snowden and the phenomenon of those two events.

22 Q. Have you conducted additional research specifically to
23 prepare for testifying in this case?

24 A. Yes, I have.

25 Q. Have you ever testified in court before?

1 A. No, I haven't.

2 Q. Have you ever testified before Congress?

3 A. Yes, I have.

4 Q. Again, generally speaking, what did you testify about?

5 A. When I have testified before Congress in my personal
6 capacity, it's almost always been about cyber security-related
7 issues. When I was a deputy assistant secretary for policy at
8 DHS, I probably testified a half dozen times, and there, the
9 topic matter ranged across all of the issues that are within
10 the Department of Homeland Security's portfolio.

11 Q. Are you being paid by the government for your time here
12 today and preparing to testify?

13 A. Yes.

14 MR. DENTON: Your Honor, the government offers Paul
15 Rosenzweig as an expert on WikiLeaks.

16 THE COURT: Ms. Shroff.

17 MS. SHROFF: Your Honor, we object, and we'd like to
18 voir dire.

19 THE COURT: You can have a short voir dire. I've
20 already ruled on this, but go ahead. You can have a short voir
21 dire.

22 VOIR DIRE EXAMINATION

23 BY MS. SHROFF:

24 Q. Sir, you testified that you've testified before Congress,
25 correct?

1 A. Yes.

2 Q. You've never testified as a WikiLeaks expert before
3 Congress, correct?

4 A. No. I have, however, testified about whistleblowers
5 generally, not about WikiLeaks specifically.

6 MS. SHROFF: Your Honor, could you instruct the
7 witness to answer my question, please.

8 THE COURT: It will move along a lot faster if you
9 listen to the question and just answer it.

10 THE WITNESS: Sure.

11 BY MS. SHROFF:

12 Q. So the answer is no, you've never testified as a WikiLeaks
13 expert before Congress?

14 A. No.

15 Q. And you've never been qualified as an expert on WikiLeaks,
16 correct?

17 A. No.

18 Q. And in fact, you know no one in WikiLeaks, correct?

19 A. I don't know.

20 Q. And you've never talked to Mr. Assange, correct?

21 A. No.

22 Q. And you've never talked to anybody who represents
23 Mr. Assange, correct?

24 A. That's wrong.

25 Q. OK. Who have you talked to that represents Mr. Assange?

1 A. I believe I've spoken with Mr. Ratner on a couple of
2 occasions in the past.

3 Q. You mean his lawyer?

4 A. Yeah.

5 Q. OK. But certainly you're not suggesting to this jury that
6 a lawyer would divulge any private information about
7 Mr. Assange to you, correct?

8 A. No, I didn't say that.

9 Q. Right. So you've never had -- I'll leave it alone.

10 Dr. Rosenzweig, is it fair to say that all of your
11 knowledge about WikiLeaks is derivative of public sources?

12 A. Yes, I think that is.

13 Q. Right. So you read what somebody else has written about
14 WikiLeaks, churn it in your head and write about it, correct?

15 A. Analyze it, yes. Yeah.

16 Q. Same thing. But that's it, right?

17 A. Correct.

18 MS. SHROFF: Your Honor, we object to Mr. Rosenzweig.
19 He has no --

20 THE COURT: The objection's overruled.

21 MS. SHROFF: OK.

22 MR. DENTON: Your Honor, may I approach?

23 THE COURT: Yes, you may.

24 BY MR. DENTON:

25 Q. Mr. Rosenzweig, I've handed you what's been marked for

K24Wsch2

Rosenzweig - Direct

1 identification as Government Exhibit 1702. Do you recognize
2 that?

3 A. Yes, I do. I prepared it.

4 Q. What is it?

5 A. It's a summary demonstrative exhibit that contains
6 information and pictures that will help me explain what I know
7 about WikiLeaks.

8 Q. Did you have help in preparing it?

9 A. I did.

10 MR. DENTON: Your Honor, the government offers
11 Government Exhibit 1702 as a demonstrative.

12 MS. SHROFF: We object, your Honor.

13 THE COURT: Overruled.

14 MR. DENTON: May we publish it to the jury, your
15 Honor?

16 THE COURT: Yes, you may.

17 BY MR. DENTON:

18 Q. Mr. Rosenzweig, at a very high level, what is WikiLeaks?

19 A. Well, WikiLeaks is a self-described organization dedicated
20 to the publication and disclosure of confidential, classified
21 information. It's been described by Julian Assange as
22 uncensorable, untraceable, as a source of mass data sets.

23 Q. How does WikiLeaks disseminate its information?

24 A. Well, the principal method that it uses is a website,
25 WikiLeaks.org.

1 Q. What are we looking at on the screen here?

2 A. This is a screenshot of the front page of WikiLeaks.org as
3 it appears today.

4 Q. You said a moment ago that WikiLeaks publishes classified
5 information. What is classified information?

6 MS. SHROFF: Objection.

7 THE COURT: Overruled.

8 A. Classified information is information that the United
9 States government has classified because its disclosure would
10 cause some form of harm to the national security interests of
11 the United States.

12 Q. I want to talk a little bit about the background on
13 WikiLeaks.

14 MR. DENTON: Ms. Hurst, if we could go to the next
15 page, please.

16 Q. When was WikiLeaks founded?

17 A. WikiLeaks was founded in 2006 by Julian Assange.

18 Q. Who is Julian Assange?

19 A. Julian Assange is an Australian, a self-described
20 transparency advocate, who founded WikiLeaks for the public --
21 for the purpose of providing a forum for the disclosure of
22 information he thought the public needed to know.

23 Q. When did WikiLeaks first post material?

24 A. Its first known public disclosure was in December of 20 --
25 of 2006, when it disclosed information relating to Sheikh Ali's

1 decision or order to execute certain Somali government
2 officials.

3 Q. Now, Mr. Rosenzweig, just looking at the screen here, in
4 the corner there's an image and then text that says WikiLeaks.
5 Do you see that?

6 A. Yes.

7 Q. What is that?

8 A. That's their symbol, but we put it on there just to
9 identify this as relating to WikiLeaks.

10 Q. Just to be clear, WikiLeaks did not prepare this --

11 A. Oh, absolutely not. I prepared this.

12 Q. After the first disclosure, in 2006, how would you
13 characterize the volume of material posted by WikiLeaks?

14 A. Well, from 2006 until today, they have disclosed tens of
15 millions of pages of information of various sorts and types.
16 It's impossible to get a precise number, but in the tens of
17 millions, for sure.

18 Q. Based on your research, are there particular groups of
19 WikiLeaks disclosures that you consider especially notable?

20 A. There are certainly some that are especially notable in the
21 context of American national security, yes.

22 Q. Why are they notable?

23 A. In part, because of their volume; in part, because of their
24 large-scale effect on American national security and politics;
25 in part, because of the sensitivity of some of the things

1 they've disclosed.

2 Q. Let's talk about some of those.

3 MR. DENTON: If we could go to the next page, please.

4 Q. Let's start at the top here, April 5, 2010. What did
5 WikiLeaks post then?

6 A. On April 5, 2010, WikiLeaks disclosed a video that had been
7 sourced to the American military in Iraq, a U.S. helicopter.
8 What the video disclosed was, as the title that WikiLeaks gave
9 it, collateral murder, suggests, the accidental killing of a
10 number of Iraqi civilians as well as, it turns out later, two
11 journalists from Reuters who were also killed in the attack.

12 Q. And then next, July and October of 2010, what was that?

13 A. In July and October 2010, WikiLeaks published two groups of
14 documents known respectively as the Afghanistan and Iraq war
15 logs. There were, in total, about 450,000 of them, and these
16 were essentially internal U.S. military logs and reports of
17 activity during the war in Iraq, everything ranging from
18 reports on patrols to reports on casualties to discussions with
19 Iraqis about assistance to the United States government.
20 Basically, the sum and substance of a lot of tactical-level
21 military activity on the ground.

22 Q. Now, I want to ask you about the other ones on this page in
23 a little more detail. Looking at November 28, 2018, which
24 you've labeled Cablegate, what was Cablegate?

25 A. 2010, Cablegate.

1 Q. Sorry.

2 A. That was the disclosure of approximately a quarter million,
3 250,000, cables from the United States State Department. The
4 United States -- a cable is really just a message, an email.
5 They call them cables because back in the old days they sent
6 them by trans-Atlantic cable, but it's essentially a message
7 from, say, the U.S. embassy in Germany to the secretary of
8 state saying, I just met with the minister of interior, and
9 this is what he said. It's a report of that sort of
10 transaction.

11 Q. Where did the name Cablegate come from?

12 A. WikiLeaks gave the release that name.

13 Q. Where did the materials that were posted as part of
14 Cablegate come from?

15 A. They came from a U.S. Army private, who at the time was
16 known as Bradley Manning and is today known as Chelsea Manning.

17 Q. How do you know that?

18 A. Ms. Manning admitted it.

19 Q. Did WikiLeaks's posting of these cables have an effect on
20 the United States?

21 A. It did.

22 Q. What effect did it have?

23 MS. SHROFF: Objection.

24 THE COURT: Overruled.

25 A. Well, at the highest level, disclosure of confidential

1 communications within the State Department makes people less
2 willing to trust us, less willing to talk candidly to the
3 Department of State, since they don't know whether or not what
4 they are telling us in confidence is going to be held in
5 confidence by the government, or can be held in confidence by
6 the government.

7 More particularly, specific releases of information could
8 have individualized effect on the people mentioned in the
9 cables, their -- and their relationships with other people, who
10 would then know about their discussions with the United States.

11 MR. DENTON: Ms. Hurst, can I ask you to go to the
12 next page, please.

13 Q. Have you identified a couple of particular examples of some
14 of the consequences you've described?

15 A. Yeah. Simply as a way of picking out a couple that are
16 pretty famous and well-known to describe how these leaks had
17 adverse consequences, I picked two out.

18 The first is an effect that was had on our relationships
19 with Mexico. The U.S. ambassador to Mexico, a man named Carlos
20 Pascual, had sent back to the State Department a fairly
21 critical cable that suggested that there were very serious
22 weaknesses in the Mexican government; that we couldn't rely
23 upon them, that sort of thing, exactly the sort of candid
24 information you would want an ambassador to convey.

25 When that cable became public, the Mexican government was

1 upset. The Mexican president, Felipe Calderón, said that there
2 was severe damage to the relationship, and in the end, the U.S.
3 was obliged to re-call the ambassador to Mexico and replace him
4 with another in order to try and repair the relationship with
5 Mexico.

6 Q. Is re-calling an ambassador a significant event?

7 MS. SHROFF: Objection.

8 THE COURT: Overruled.

9 A. It is generally considered the most serious sort of
10 diplomatic event that can happen between two nations.

11 Q. And then you've got another example here. Can you tell us
12 about that, please?

13 A. Yes. Helmut Metzner was a member of the German FDP; that's
14 the Free Democratic Party. Germany has a parliamentary
15 government. The FDP is, was at the time the third or fourth
16 largest, and so when Germany -- when one party doesn't get a
17 majority in a parliamentary government, they have to negotiate
18 a coalition with one of the smaller party members.

19 Mr. Metzner was with the FDP, and he was providing the U.S.
20 embassy in Berlin with some insight into the ongoing
21 negotiations in the forming of a government in Germany at the
22 time. When his work with the U.S. government, his candor with
23 the U.S. government was disclosed, he was fired from the FDP;
24 he'd been a rising star. He lost his job. And the FDP,
25 likewise, had said that it had significant difficulties and

1 challenges working with the then U.S. ambassador, Ambassador
2 Murphy. And so there was a significant effect on our ability
3 to work with that particular party especially.

4 Q. I want to talk about another WikiLeaks post you've
5 identified before, but first, just as a matter of background,
6 are you familiar with the group Anonymous?

7 A. I am.

8 Q. What is Anonymous?

9 A. Anonymous is a decentralized, amorphous group of what --
10 self-described hacktivists -- that's two words, "hackers" and
11 "activists," together -- who say that they do hacking for
12 political purposes, to make a political point. Their very
13 first attack, hacking attack was on the Church of Scientology,
14 for example, because of its practices.

15 Q. Has Anonymous worked with WikiLeaks before?

16 A. It has.

17 Q. How do you know that?

18 A. Well, again, some Anonymous members have admitted so and
19 have said so publicly.

20 Q. Let's start with 2010. What happened between WikiLeaks and
21 Anonymous in 2010?

22 A. Well, as we -- there are three parts to that, I think. The
23 first part we've sort of already described. In 2010, WikiLeaks
24 became quite famous through a number of disclosures of public
25 information about the United States and really rose to

1 prominence from its early beginnings. That, naturally,
2 generated a lot of attention, some of it positive and some of
3 it negative. A lot of American citizens didn't feel that
4 WikiLeaks had American -- America's best interests at heart.

5 One of the effects of that, the second part of this, is
6 that at the time, in 2010, WikiLeaks was using companies for
7 its services. It used PayPal and it used Amazon and it used
8 MasterCard; PayPal and MasterCard to get donations, Amazon for
9 web services, that sort of thing. Because of the adverse
10 reaction to WikiLeaks in the American public, Amazon,
11 MasterCard and PayPal all suspended their services to
12 WikiLeaks, pulled their services. PayPal wouldn't process
13 payments.

14 MS. SHROFF: Your Honor, we have an objection.

15 THE COURT: What's the objection?

16 MS. SHROFF: Well, first of all, your Honor, we ask
17 for a limiting instruction on these statements not being
18 admitted for the truth of the statements themselves.

19 Secondly, I think that the testimony being elicited is
20 far beyond any expertise the witness has.

21 THE COURT: I'll grant the instruction. Much of your
22 objection deals with the offering of statements to prove the
23 truth. It's not offered for that purpose but only to establish
24 that WikiLeaks made these statements, when they did so and how
25 the classified information was published. That's the limiting

1 instruction I'll provide.

2 After that, your objection is overruled.

3 Go ahead, Mr. Denton.

4 THE WITNESS: So, the third part of this story is
5 where Anonymous and WikiLeaks come together.

6 After the companies had stopped serving WikiLeaks
7 because of -- because of their activity, Anonymous, this group
8 of hacktivists, announced an operation. They called it
9 Operation Payback or also sometimes known as Operation Avenge
10 Assange, in which the hacktivists launched cyber attacks
11 against MasterCard, PayPal, and -- and they announced one at
12 Amazon, but then they didn't carry it out. The attacks were
13 generally not successful, but they were part of a process by
14 which Anonymous offered support for WikiLeaks.

15 Q. And again, how do you know that?

16 A. Again, it's a matter of public record. The -- 14 of the
17 participants in Operation Payback have admitted to the
18 substance of what I've just described.

19 Q. Has Anonymous ever served as a source of information for
20 WikiLeaks?

21 A. Yes, it has.

22 In 2012, a WikiLeaks -- an Anonymous hacktivist named Jeremy
23 Hammond stole a series of emails from a private intelligence
24 research company called Stratfor. Stratfor basically provides
25 companies with the same type of intelligence gathering and

1 collection that they think national-security people provide.
2 They tell them what's coming, who is going to win elections,
3 that sort of thing. Hammond stole these emails and provided
4 them to WikiLeaks, which then published them.

5 Q. And again, how do you know that?

6 A. Hammond has admitted to that.

7 Q. So then let's move to a little more recently, if we can.
8 Was WikiLeaks doing anything in the summer and fall of 2016?

9 A. WikiLeaks was involved in two instances of publication of
10 information that were related to the 2016 national election.

11 Q. Was there substantial press coverage of these leaks?

12 MS. SHROFF: Objection.

13 THE COURT: Overruled.

14 A. Yes.

15 Q. Starting with the top, what came first?

16 A. Well, the first such release of information came from data
17 that had been stolen from the Democratic National Committee,
18 the committee that runs the democratic party and that runs the
19 nomination process for candidates of the democratic party.
20 The -- 19,000-plus emails were released in July, just on the
21 eve of the national convention, and another 8,000 were released
22 on November 6, just on the eve of the national election.

23 Q. And what next, down below that?

24 A. John Podesta was the chairman or manager of Hillary
25 Clinton's election campaign. He, too, was hacked, and over

1 200,000 pages of his files, all relating to the campaign, were
2 subsequently published by WikiLeaks, almost daily, beginning in
3 October and running right up to the Election Day in early
4 November of 2016.

5 Q. I think you've highlighted a couple of dates, but as a
6 general matter, did these leaks happen over time?

7 A. Yes. The -- certainly the ones with respect to Mr. Podesta
8 happened essentially daily over that time frame.

9 Q. Mr. Rosenzweig, what do you know about how those emails
10 were provided to WikiLeaks?

11 A. I have reviewed public reports about those from
12 private-sector cyber security firms. I have reviewed reports
13 from the Senate intelligence committee. I've reviewed reports,
14 insofar as they're public, from the intelligence community and
15 FROM the special counsel who investigated these matters. And
16 so, on that basis, I -- I guess the question was what do I
17 know?

18 I know that all of these are in --

19 MS. SHROFF: Your Honor, we have an objection based on
20 hearsay.

21 THE COURT: Overruled.

22 A. All of these are of the view that the information was
23 stolen from both the DNC and the Clinton campaign by elements
24 of the Russian government and passed to WikiLeaks through
25 various sources, notably one called Guccifer 2.0, which is a

1 hacker name for what appears to be a fictitious, nonexistent
2 person.

3 Q. Does WikiLeaks provide any guidance on how people in
4 possession of sensitive information can get it to WikiLeaks?

5 A. Yeah, they have a whole page on how to do that.

6 MR. DENTON: Let's take a look at that, Ms. Hurst,
7 please.

8 Q. Mr. Rosenzweig, where does this page come from?

9 A. This is a screenshot from the "submit documents to
10 WikiLeaks" web page as it appears today.

11 Q. Were you able to determine whether this page has changed
12 over time?

13 A. I was.

14 Q. How were you able to do that?

15 A. Well, as you know, the internet -- web pages on the
16 internet change daily sometimes, and so, there is a function,
17 an archive organization that takes old screenshots -- or takes
18 screenshots of web pages periodically and keeps them in an
19 archive. It goes by the name of the Wayback Machine so that
20 you can search in the archive and ask it whether or not it has
21 a snapshot of, say, how the U.S. Attorney's Office's web page
22 looked in 2012 or how my personal website looks in 2015.

23 MR. DENTON: We can go to the next page, Ms. Hurst.

24 Q. Mr. Rosenzweig, what are we looking at here?

25 A. This is the Wayback Machine-archived picture of the

1 WikiLeaks.org "submit documents to WikiLeaks" page in April of
2 2016.

3 Q. How has it changed from April of 2016 to today?

4 A. Well, insofar as I can tell, the only difference is that
5 the website address that you are asked to use to submit a leak
6 to WikiLeaks through has changed.

7 Q. Is that a normal website address?

8 MS. SHROFF: Objection.

9 THE COURT: Overruled.

10 A. It's different from the ones that most people commonly see.
11 It is what's known as a dot-onion address.

12 Q. What is a dot-onion address?

13 A. Well, it's a reference to a type of web browser called TOR,
14 which stands for The Onion Router. A dot-onion address is one
15 that is anonymized and, therefore, difficult, if not
16 impossible, to trace connections to.

17 Q. Generally speaking, looking at this page, how does
18 WikiLeaks tell people to submit information to it?

19 A. Well, they tell people to use this browser, TOR, The Onion
20 Router, which -- it looks just like any other browser, like
21 your Safari browser or your Firefox browser or something like
22 that, but it has this anonymizing function built into it. So
23 it tells people to first install TOR, The Onion Router, browser
24 on their computer, and then use this address, copy it into the
25 TOR browser in order to access the secure, untraceable upload

1 site.

2 Q. Mr. Rosenzweig, do you see these boxes down at the bottom
3 about how to contact WikiLeaks and what is TOR, and so on?

4 A. Yeah, I do.

5 Q. What are those?

6 A. Those are click -- boxes where you click on them and it
7 answers the question.

8 Q. Let's take a look at some of those.

9 MR. DENTON: Ms. Hurst, let's go to the next page.

10 Q. What does WikiLeaks say about TOR?

11 A. Well, it describes it, as I just described it, as an
12 encrypted anonymizing network that makes it hard to intercept
13 internet communications. Today, if you go to a web page, as
14 you probably know, people track you. You get cookies, and they
15 can track you, and that's how Google sells you ads, for
16 example. TOR eliminates that possibility, to the maximum
17 extent possible, and attempts to make it difficult to trace
18 who's accessing a website so that you can do so in an anonymous
19 way.

20 Q. How does TOR do that?

21 A. This is a graphic that was put together by the Electronic
22 Frontier Foundation, which is a pro-privacy organization that
23 advocates for all citizens to use TOR.

24 What it does, what TOR does is essentially create a random
25 network for each transmission to bounce your information from

1 your computer to the web -- to the server that's hosting the
2 website that you want to go to. It does so in an encrypted
3 form so each of the steps is encrypted, and it goes through a
4 series of hops that make it difficult, along with the
5 encryption, to bait -- backward trace it. So in this diagram,
6 Bob, the ultimate recipient of the information from Alice,
7 could not know that it was Alice who was sending him the
8 information.

9 MR. DENTON: If we can go to the next page, I want to
10 look at the other thing that WikiLeaks talked about.

11 Q. What is Tails?

12 A. Well, Tails is a -- when you boot up your computer, it runs
13 an operating system inside your laptop that starts it. If
14 you're a Microsoft person, it's Windows. If you're an Apple
15 person, it's the macOS.

16 Tails is an operating system that resides in a thumb drive,
17 and when you boot up your computer with Tails in the -- stuck
18 in the USB port, instead of running your Microsoft Windows or
19 your Apple OS, it will run the operating system from your thumb
20 drive.

21 The reason people use Tails is that even if you use the
22 anonymizing connection of TOR, you can still leave evidence of
23 your communication on your personal laptop. If I type in
24 something on my keyboard today, it will -- it could reside in
25 some forms of memory for quite some time. If I use Tails

1 instead, if I run the operating system just from the thumb
2 drive instead of from what's in my laptop, then there is no
3 memory, or there's much less memory, of what happened on my
4 laptop in the laptop itself. And so it's another way of
5 creating anonymity, by removing the evidence from my laptop in
6 the same way that TOR eliminates it from my transmission across
7 the network.

8 Q. Just for the record, can you read what WikiLeaks says about
9 Tails?

10 A. Sure. It says, "If you are at high risk and you have the
11 capacity to do so, you can also access the submission system
12 through a secure operating system called Tails. Tails is an
13 operating system launched from a UBS stick or a DVD that aims
14 to leave no traces when the computer is shut down after use and
15 automatically routes your internet traffic from TOR. Tails
16 will require you to have either a USB stick or a DVD and at
17 least 4GB" -- that's gigabytes -- "big and a laptop or desktop
18 computer."

19 MR. DENTON: If we can go to the next page.

20 Q. Does Tails stand for anything?

21 A. Oh, sorry.

22 Yes, it stands for The Amnesic Incognito Live System.
23 That's because it forgets what it is. There's no memory of
24 what it does, and it allows you to act incognito, anonymously.

25 Q. What is this page here that we're looking at?

1 A. This is the download page from which you can download the
2 latest version of Tails.

3 Q. And where it says Tails 2.2.1, what does that mean?

4 A. That's a version control, like, like Tails 2.1, Tails 2.2,
5 Tails -- it's just the most recent revision or release of the
6 system.

7 Q. And what's the date for that revision?

8 A. That revision is March 18, 2016. So that's the date of
9 that particular version of Tails.

10 MR. DENTON: If we could go to the next page, please,
11 Ms. Hurst.

12 Q. How does someone get Tails, Mr. Rosenzweig?

13 A. Pretty much the same way that one gets any application for
14 one's system. You go to one of the download pages. You click
15 on the link and the files download and then they get installed,
16 in this case on a USB rather than on your computer, but, in
17 effect, the operation is the same.

18 Q. Do you see on the left where it says "download Tails
19 torrent file"?

20 A. Yes.

21 Q. Sorry. On the right.

22 A. Yeah. OK. Thank you.

23 Yes, I do see the torrent, bit torrent download, yes.

24 Q. What is a bit torrent download?

25 A. Bit torrent is another way of downloading information.

1 It's what's known as a peer-to-peer system, so instead of
2 downloading from a server, you download directly from another
3 host who can transmit it to you directly. It's just a
4 different way of downloading, really.

5 MR. DENTON: If we could go back to WikiLeaks for a
6 moment.

7 Q. Mr. Rosenzweig, what are we looking at here?

8 A. Well, this is another pop-up from the buttons below. This
9 is further information that WikiLeaks provides to people who
10 are contemplating sending it information on how to avoid being
11 discovered and preserve their anonymity.

12 Q. Can you read what WikiLeaks says at the top, just under
13 tips, generally?

14 A. Sure. It says, I think accurately: "Our submission system
15 works hard to preserve your anonymity, but we recommend you
16 also take some of your own precautions. Please review these
17 basic guidelines."

18 Q. Can you focus on No. 2. What does it say under No. 2?

19 A. It recommends, under "what computer to use," that "if the
20 computer you are uploading from could subsequently be audited
21 in an investigation, consider using a computer that is not
22 easily tied to you. Technical users can also use Tails to help
23 ensure you do not leave any reference of your submission on the
24 computer."

25 Q. Finally, if we could talk about the last part of

1 WikiLeaks's page here, what are we looking at?

2 A. Well, this is what to do afterwards. It's not technical,
3 but it's recommendations on behavior.

4 Q. I'm going to ask you to focus on Nos. 2 and 3.

5 MR. DENTON: If we could go to the next, page, please,
6 and try and blow those up.

7 Q. Can you read No. 2t for us?

8 A. Yes. It says: "Act normal. If you are a high-risk
9 source, avoid saying anything or doing anything after
10 submitting which might promote suspicion. In particular, you
11 should try to stick to your normal routine and behavior."

12 Q. And then No. 3, please.

13 A. "Remove traces of your submission. If you are a high-risk
14 source and the computer you prepared your submission on or
15 uploaded it from could subsequently be audited in an
16 investigation, we recommend that you format and dispose of the
17 computer hard drive and any other storage media you used. In
18 particular, hard drives retain data after formatting which may
19 be visible to a digital forensic team. And flash media -- USB
20 sticks, memory cards and SSD drives -- retain data even after a
21 secure erasure. If you use flash media to store sensitive
22 data, it is important to destroy the media. If you do this and
23 are a high-risk source, you should make sure there are no
24 traces of the cleanup, since such traces themselves may draw
25 suspicion."

1 Q. Now I want to put aside some of this technical stuff for a
2 moment, Mr. Rosenzweig.

3 MR. DENTON: If we could go to the next page.

4 Q. Has WikiLeaks actively solicited any particular type of
5 information?

6 A. Yes. They are -- they have in the past actively solicited
7 the leak of classified U.S. government information.

8 Q. Are there particular examples of that?

9 A. Well, I've noted two, a couple, here. They have had, from
10 the beginning, a most-wanted list of leaks that they would like
11 to have. They have a crowd -- and they also have a
12 Crowdfunding page on which you can pledge money to pay for the
13 work that might go into securing a leak.

14 Q. These two quotes at the bottom here, who said those things?

15 A. Both of them are from Julian Assange.

16 Q. I want to ask you in particular about the bottom one, and
17 in particular, I guess it's the end of the second and most of
18 the third line. It says, "It is possible now for even a single
19 system administrator to have a very significant change."

20 Are you familiar with the term "system administrator"?

21 A. Yes.

22 Q. Is that a technical term?

23 A. Yes.

24 Q. What does it mean?

25 A. Well, it is, generally speaking, the person who is in

1 charge of a computer IT system. He's the person who you go to
2 to recover your password. He's the person that you go to to
3 change access rules so that you can get access to different
4 parts of the system. He's the guy in charge.

5 Q. Now, based on your research, Mr. Rosenzweig, have you been
6 able to determine any sort of patterns or consistent practices
7 with respect to WikiLeaks's posts of sensitive information?

8 A. Yes, I -- I've studied, to some degree, the -- well, I've
9 studied the ways in which WikiLeaks redacts and does not redact
10 information that it hosts on the page.

11 Q. Let's talk a little bit about that. Let's start at the
12 top. What do you mean by redacting information?

13 A. Well, redaction is essentially a black box on a piece of
14 paper, at its simplest form, that deletes, say, personal
15 information or the name of a person who sent a piece of
16 information. It is a restriction on the data that you get that
17 cuts out a piece of it.

18 Q. And what have you been able to determine about WikiLeaks's
19 practices with respect to redactions?

20 A. Well, they're inconsistent. They've changed over time. It
21 started -- WikiLeaks started out with almost no redaction
22 practices at all. They were actually just operating a Wiki
23 that almost anybody could upload to. Over time, their
24 redaction practices have changed. They've curated some of
25 their releases so that they are -- how shall I say?

1 They've curated some of the releases so that they have
2 attempted to remove some personal information from them, often
3 incompletely. Sometimes they make releases and then they
4 realize that they've released something that, maybe, could hurt
5 an individual, and they apply redactions later. It's quite
6 variable, I would say.

7 Q. Does WikiLeaks generate any original material?

8 A. Not that I know of.

9 Q. What do they post when they post classified information or
10 other leaks that they're disclosing?

11 A. WikiLeaks posts the raw information, so if they have a --
12 450,000 logs, they post the logs themselves, the actual texts
13 of the communication, the pictures of the communique that were
14 accompanying it. If they have cables, they post the texts of
15 the cables in their original form.

16 Q. Has WikiLeaks made any statements about whether they review
17 all of that material?

18 A. WikiLeaks has said that it doesn't traditionally --
19 typically conduct any real analysis. Its goal, in fact, is to
20 let the people decide, to provide them with the full
21 information that they can.

22 Q. In connection with some of these disclosures we've been
23 talking about, has WikiLeaks ever worked with, like, The New
24 York Times, Wall Street Journal --

25 A. Yes.

1 Q. -- entities like that?

2 A. Yes, they have.

3 Q. Tell us a little about that, please.

4 A. Well, at times, WikiLeaks has partnered with traditional
5 media organizations in order to provide those media
6 organizations with advance looks at the material that they're
7 going to release. Those media organizations, in turn, then
8 publish at the -- simultaneously along with their analysis and
9 their own reporting about the leaks, what they mean, what they
10 think, you know, who it might have come from, why it's coming
11 out now, that sort of thing.

12 Q. When WikiLeaks posts information, do they say where it
13 comes from?

14 A. No, they don't.

15 Q. What, if anything, has WikiLeaks said about steps they take
16 with regard to sources of information?

17 A. In fact, they've said that they do their best to protect
18 their sources of information both through the anonymizing steps
19 that we've already talked about and by giving inaccurate,
20 incomplete or incorrect information about their sources in
21 their public disclosures as a way of obscuring or assisting in
22 obscuring the identity of their sources. In short, they've
23 said that they public -- they've publicly said that they
24 publish inaccurate information about their sources on purpose.

25 Q. As a general matter, across the body of WikiLeaks

1 disclosures, has WikiLeaks focused on any particular target?

2 A. Well, it is statistically true that the overwhelming
3 majority of the information that they've published is about the
4 United States. There are other countries in a number -- which
5 have had a number of leaks, but the overwhelming majority is
6 American.

7 Q. Mr. Rosenzweig, have you become familiar with a WikiLeaks
8 disclosure known as Vault 7?

9 A. I have.

10 Q. When did WikiLeaks first mention Vault 7?

11 A. February of 2017, February 4, to be particular.

12 Q. And what are we looking at here, Mr. Rosenzweig?

13 A. Well, as we said at the beginning, WikiLeaks has two
14 sources of putting information out. One is its web page that
15 we've been focusing on. The other's its Twitter account.

16 This is a screenshot of the February 4, 2017, Twitter feed
17 from WikiLeaks.

18 Q. Did WikiLeaks release any material at the same time as this
19 tweet?

20 A. No. This was a teaser tweet.

21 Q. And there is a question here, "What is Vault 7?" Did
22 WikiLeaks answer that question?

23 A. Not at this time, no.

24 Q. You called this a teaser. Did those teasers continue?

25 A. Yes, they did, for a number of days.

K24Wsch2

Rosenzweig - Direct

1 MR. DENTON: Let's take a look at those, if we could,
2 Ms. Hurst.

3 Q. What came next?

4 A. Well, this is the next day: "Where is Vault 7?" With a
5 kind of spooky picture.

6 Q. And again, where do these pictures come from?

7 A. I don't know.

8 Q. Who posted those --

9 A. Oh, I'm sorry. WikiLeaks. WikiLeaks posted them. I don't
10 know what the source, original source of this is.

11 Q. What next?

12 A. "When is Vault 7?" That was the next day, February 6.

13 Q. And if we could keep going, please.

14 A. "Who is Vault 7?" And this is, again, a picture of --
15 that's Mr. Assange in the middle.

16 Q. Again, who posted that particular picture?

17 A. WikiLeaks posted it on February 7, 2017.

18 Q. If we could go to the next one, please?

19 A. This is the WikiLeaks post from February 8, "Why is Vault
20 7?"

21 Q. And one more, please.

22 A. And this is the February 9 post: "How did Vault 7 make its
23 way to WikiLeaks?"

24 Q. Again, we've been talking about a lot of questions. When
25 WikiLeaks posted these tweets, did it provide answers to these

1 questions?

2 A. It did not.

3 MR. DENTON: Then one more, please.

4 Q. When did WikiLeaks first release substantive material
5 related to Vault 7?

6 A. That would be this, this picture here, on March 7, 2017,
7 "The release of Vault 7, part 1, year zero, inside the CIA's
8 global hacking force."

9 Q. And then down below that, do you see where it says "CIA
10 Vault 7 year zero decryption pass phrase"?

11 A. Yes.

12 Q. What is the pass phrase?

13 A. Well, the pass phrase is the decryption phrase that you
14 have to type in to unencrypt the release, and the phrase they
15 used is "splinter it into a thousand pieces and scatter it into
16 the winds."

17 Q. Do you recognize that phrase?

18 A. Yes.

19 Q. Where does it come from?

20 A. It's attributed to JFK, John Kennedy, who said it after the
21 Bay of Pigs failure in Cuba when he said that he was -- he said
22 that he was so angry at the CIA that he was going to splinter
23 it into a thousand pieces and scatter it into the wind.

24 Q. Was there more than one disclosure tied to Vault 7 by
25 WikiLeaks?

K24Wsch2

Rosenzweig - Direct

1 A. Yes, there was.

2 Q. Now, in terms of your testimony today, Mr. Rosenzweig, did
3 you review any of the actual material released by WikiLeaks
4 under Vault 7?

5 A. No, I did not.

6 Q. Why not?

7 A. Well, two reasons. First, that wasn't my area of
8 expertise. And the second is that I continued to have an
9 inactive security clearance, and my understanding is it's not
10 appropriate for me to look at things I'm not cleared to know
11 about.

12 Q. What material related to Vault 7 did you review?

13 A. I reviewed the WikiLeaks posts that released them and
14 announced them to the world.

15 MR. DENTON: Let's take a look at those, if we could.

16 Q. What did WikiLeaks release from Vault 7 in March of 2017?

17 A. There were three releases in March of 2017: The first one
18 that we've just discussed, which was the very first, "CIA
19 hacking tools revealed" announcement; and then the first of a
20 series of releases of particular, I guess, groups of
21 material -- on March 23, one known as Project Dark Matter, and
22 on March 31, one known as Marble Framework.

23 Q. If you could for a moment, Mr. Rosenzweig, could you just
24 read what WikiLeaks described the Vault 7 release as on March
25 7?

K24Wsch2

Rosenzweig - Direct

1 A. "The WikiLeaks releases Vault 7 Marble," which is --

2 Q. I'm sorry. I meant March 7, on the left.

3 A. Oh, I'm sorry. I apologize. I probably misheard you.

4 "A series of leaks on the U.S. Central Intelligence Agency
5 code named Vault 7 by WikiLeaks. It is the largest-ever
6 publication of confidential documents on the agency."

7 Q. I didn't mean to cut you off.

8 A. Sorry.

9 Q. If we can go back to the Marble Framework, please.

10 A. I misheard you.

11 "Today, March 31, WikiLeaks released Vault 7, Marble, 676
12 source code files with the CIA's secret, antiforensic Marble
13 Framework."

14 Q. Are you familiar with the term "source code"?

15 A. Yes.

16 Q. What is source code?

17 A. Source code are the lines of computer code that a computer
18 programmer will use to design, to create a program.

19 Q. Did WikiLeaks release more information from Vault 7 after
20 March 31, 2017?

21 A. Yes.

22 Q. About how many Vault 7 releases were there in total?

23 A. I think there were 26 in total.

24 Q. Let's take a look at the next set of them. What did
25 WikiLeaks release from Vault 7 in April of 2017?

K24Wsch2

Rosenzweig - Direct

1 A. Weekly. On April 7, they released something known as the
2 Grasshopper Framework. On April 14, they released something
3 known as HIVE. On April 21, 2017, it was Weeping Angel, and on
4 April 28 it was something called Scribbles.

5 Q. What about in May, Mr. Rosenzweig?

6 A. Only three in May. May 5 was Archimedes. May 12 was After
7 Midnight along with one called Assassin that didn't make it
8 into the title. And on May 19, a project known as Athena.

9 Q. Did the leaks continue into June?

10 A. Yes. Five in June. June 1 was Pandemic. June 15 was
11 Cherry Blossom. June 22 was Brutal Kangaroo. June 28 was
12 Elsa, and June 29 was one known as Outlaw Country.

13 Q. If we could then talk about July.

14 A. They -- these are -- they continued on a more or less
15 weekly basis. July 6 was Bothan Spy and another project called
16 Dear Falcon. July 13 was High Rise. July 19 was UCL/Raytheon,
17 UCL standing for Umbrage Component Library. July 27 was a
18 project known as Imperial.

19 Q. Now, these titles that you're reading, Mr. Rosenzweig,
20 where do these titles come from?

21 A. I don't know. I assume that they are the CIA titles for
22 the --

23 THE COURT: Don't assume.

24 THE WITNESS: Huh.

25 THE COURT: If you don't know, that's the answer.

1 THE WITNESS: I don't know.

2 BY MR. DENTON:

3 Q. What you're reading here, where did that come from?

4 A. Oh, I'm sorry. These are from WikiLeaks. They're from
5 their Twitter feed.

6 THE COURT: Members of the jury, let me remind you
7 these are offered not for the truth but for the fact that Wiki
8 made these statements. Not for the truth.

9 MR. DENTON: Thank you, your Honor.

10 Could we then talk about August, Ms. Hurst.

11 Q. What came in August?

12 A. August 3 was a release of a project called Dumbo. August
13 10 was the release of a project called CouchPotato. August 24
14 was the release of a project called Express Lane. And August
15 31 was one that the CIA called Angel Fire.

16 MR. DENTON: And then September, Ms. Hurst, please.

17 A. Just one in September. Protego was released on September
18 7, 2017.

19 Q. After Vault 7, did WikiLeaks release any more information,
20 Mr. Rosenzweig?

21 A. There was another release that they called Vault 8.

22 Q. Talk about that then, please.

23 A. This is the last in the series. It was called Hive, and
24 it's the source code repository. It was styled as the source
25 code repository for the CIA Hive project, and it was released

1 on November 29, 2017.

2 MR. DENTON: If I could just have a moment, your
3 Honor.

4 Q. Mr. Rosenzweig, you just read this here about the source
5 code repository. Is that the same thing that we were talking
6 about in connection with the earlier release?

7 A. The word -- yeah, it's -- source code is the same thing,
8 yes.

9 Q. Based on your research on WikiLeaks's publications, prior
10 to the Vault 7 and Vault 8 disclosures, did WikiLeaks ever
11 publish any source code?

12 A. As far as I know, they have not.

13 MR. DENTON: Nothing further, your Honor.

14 THE COURT: Ms. Shroff.

15 CROSS-EXAMINATION

16 BY MS. SHROFF:

17 Q. Mr. Rosenzweig, you've never personally spoken to anyone at
18 WikiLeaks, correct?

19 A. At where? I'm sorry. I didn't catch --

20 THE COURT: WikiLeaks.

21 THE WITNESS: WikiLeaks.

22 A. No, not that I know of.

23 Q. Well, you'd know who you've talked to, correct?

24 A. Right, but I don't know who WikiLeaks members are. They
25 don't announce themselves.

1 Q. So your testimony today is you could have talked to
2 somebody from WikiLeaks --

3 A. I don't --

4 Q. -- but you just don't know?

5 A. Nobody has ever told me that they are a member of
6 WikiLeaks.

7 Q. So as far as you know, you have spoken to no one who works
8 at WikiLeaks?

9 A. As far as I know, I've never spoken to anyone who's told me
10 that they are from WikiLeaks.

11 Q. And you've never, obviously, worked at WikiLeaks, correct?

12 A. That's correct.

13 Q. You have no personal interaction with WikiLeaks, correct?

14 A. Correct.

15 Q. And all of the information that you have about WikiLeaks
16 comes from reading what other people tell you about WikiLeaks,
17 correct?

18 A. What WikiLeaks tells me about WikiLeaks, but yes.

19 Q. Well, not just what WikiLeaks tells you, right? What other
20 people tell you about WikiLeaks, correct?

21 A. Correct.

22 Q. And you've never had any personal interviews or any
23 interactions with United States officials regarding WikiLeaks
24 before, correct?

25 A. Before this interaction here?

K24Wsch2

Rosenzweig - Cross

1 Q. Right.

2 A. That's correct.

3 Q. Right. So the FBI's never consulted with you about
4 WikiLeaks, correct?

5 A. That's correct.

6 Q. The CIA's never consulted with you about WikiLeaks,
7 correct?

8 A. That's correct.

9 Q. Foreign nations have never consulted with you about
10 WikiLeaks, correct?

11 A. That's correct.

12 Q. The State Department's never hired you as their expert on
13 WikiLeaks, correct?

14 A. Correct.

15 Q. And it's fair to say that you personally, as you testified,
16 do not know the contents of WikiLeaks's disclosures, correct?

17 A. That's correct.

18 Q. And you testified that that's because you have an inactive
19 clearance, correct?

20 A. And because it was outside my area of expertise, but yes.

21 Q. So what WikiLeaks releases is outside your expertise,
22 correct?

23 A. No. The substance of this release is outside my area of
24 expertise. I'm not a computer scientist. I don't know the
25 forensics.

1 MS. SHROFF: Could you just pull up for me, please,
2 the various names the government had on the readout to each
3 program. Let me see, starting on the Vault 7.

4 Q. Your testimony was you have an inactive clearance, which
5 precluded you from reading anything about these leaks, correct?

6 A. That's one of the two reasons why I haven't read these --

7 Q. Let's just focus on the first reason, the inactive
8 clearance. Correct?

9 A. Actually, that's the second reason, but yes.

10 Q. Then let's start with the second reason. Are you with me?

11 A. Yeah.

12 Q. So who grants you clearance?

13 A. The U.S. government.

14 Q. Who in the U.S. government?

15 A. My clearance is held by the Department of Homeland Security
16 at the moment.

17 Q. Right. And when the Department of Homeland Security holds
18 your clearance, you worked for somebody in the Department of
19 Homeland Security, right? Michael Chertoff, correct?

20 A. I did.

21 Q. Right. And Michael Chertoff and you started a company
22 together after that, correct?

23 A. No.

24 Q. You didn't start a company together?

25 A. No.

1 Q. Did you work for him?

2 A. I'm a senior adviser to a company that he started.

3 Q. Right.

4 A. He started it with his chief of staff, Chad Sweet. I work
5 for them now and then on projects.

6 Q. OK.

7 A. But I didn't start a company with him, and I'm not an
8 employee of his company.

9 Q. Are you a consultant to his company?

10 A. I'm an senior adviser to his company.

11 Q. What does that mean?

12 A. It means that at times if there are projects to which I can
13 add value, they will retain me as an additional participant,
14 independent of them. If I get cases, matters that are too
15 large for me, I will refer it to them, because they're a big
16 company. I'm a small, one-man shop.

17 Q. It's basically you give them business, they give you
18 business, correct?

19 A. It's a cooperative business relationship, yes.

20 Q. And how much do they pay you, by the way?

21 A. Who?

22 Q. The Michael Chertoff company. How much do they pay you an
23 hour?

24 MR. DENTON: Objection.

25 THE COURT: Overruled.

1 A. They don't pay me by the hour.

2 Q. OK. What's the flat fee?

3 A. Depends on the size of the project.

4 Q. Give us a range.

5 A. The current project I'm working on right now will pay me
6 \$25,000 this year.

7 Q. Now, going back to the clearance that you said is held by
8 homeland security, you are an expert for the Department of
9 Justice here, correct?

10 A. I've been retained by the Department of Justice, yes.

11 Q. Right. And that's the United States Attorney's Office,
12 correct?

13 A. That's correct.

14 Q. That's under the umbrella of the Department of Justice,
15 correct?

16 A. Yes.

17 Q. And they could certainly give you clearance to look at
18 these disclosures, correct?

19 A. I don't know.

20 Q. You don't know?

21 A. I don't know who would be authorized to grant me a
22 clearance to look at these matters.

23 Q. I didn't ask you if you know who. I just asked you if they
24 would be one of the people who could give you permission to
25 look at them.

1 A. I don't know if they have that authority.

2 Q. You're a national security expert, right?

3 A. I don't know who controls the security clearance for this
4 particular piece. My experience is, actually, that
5 authorization is typically quite limited. I suspect, since
6 you're asking, that they -- the gentlemen there -- do not have
7 the authority to grant me that clearance.

8 Q. I didn't ask you if the gentlemen there have the authority,
9 sir. I asked you if the Department of Justice had authority.

10 A. I don't know.

11 Q. OK. Let's just go with that. You don't know if you could
12 get access to read any one of these disclosures, correct?

13 A. That's what I just said.

14 Q. OK. Let's start with Vault 7 that he had you read, CIA
15 hacking tools revealed. All you saw is this particular
16 disclosure, correct?

17 A. Correct.

18 Q. You don't know anything about what it disclosed, correct?

19 A. I -- nothing beyond what is on this -- what is -- what is
20 here, no.

21 Q. So you don't even know if, in fact, the CIA hacking tools
22 were revealed, correct?

23 A. I do not know from this, no.

24 Q. Right. And you do not know if Project Dark Matter was
25 released, correct?

1 A. There have been --

2 Q. No, no. Do you know or do you not know if anything about
3 Project Dark Matter was actually released by WikiLeaks? That's
4 the question.

5 A. I have read public reports to that effect, yes.

6 Q. But you do not know?

7 A. I do not know personally, no.

8 Q. Right. This is only about what you know, sir, not about
9 what the world knows.

10 MS. SHROFF: Let's turn to the next one, Marble
11 Framework.

12 Q. Again, you do not know, correct?

13 A. Only from public reports.

14 Q. It's a question about --

15 A. No, because -- I mean, I'm sorry, but as an academic, I
16 rely exclusively on public reports. I have read public reports
17 that these did include hacking tools. I have not examined the
18 tools themselves, no, but --

19 Q. So if the --

20 A. But that, that is -- when you say you do not know, the
21 sources from which I normally gain information have told me so.
22 I have no reason to doubt them, but I have not verified them
23 any more than I know the results of the Iowa election tomorrow.

24 Q. But that's not really true, correct? Because if you wanted
25 to know the results of the Iowa election, you could actually

- 1 look at the tally of the Iowa elections, correct?
- 2 A. I don't think so. I don't have them.
- 3 Q. You couldn't?
- 4 A. I don't have them. I would rely on public reports.
- 5 Q. OK. So let's just keep going with your reliance on public
6 reports. If The New York Post told you that Project Dark
7 Matter was, in fact, released by WikiLeaks, you would believe
8 The New York Post?
- 9 A. Not necessarily.
- 10 Q. So then you would make a decision as to whether or not you
11 would actually believe the secondary source about the leak that
12 is titled Project Dark Matter?
- 13 A. That's the function that I'm supposed to function at.
- 14 Q. Well, so --
- 15 A. Evaluation of secondary sources. Primary sources reach
16 conclusions.
- 17 Q. Well, you didn't check the primary source, correct?
- 18 A. I was asked -- I was told I cannot check this primary
19 source.
- 20 Q. No. You did not check the primary source, correct?
- 21 A. I did not.
- 22 Q. Right. And you did not check the primary source for Marble
23 Framework, correct?
- 24 A. Correct.
- 25 Q. And you did not check the primary source for --

1 MS. SHROFF: Next screen, please.

2 Q. -- Grasshopper Framework, correct?

3 A. Yes.

4 Q. In fact, all you know is that might just tell you about the
5 different kinds of grasshoppers there are in the government,
6 correct; you just don't know?

7 A. I only know what is on the screen.

8 Q. Right.

9 A. WikiLeaks has said that's not what it is.

10 Q. But you are basically reading a screen from WikiLeaks, and
11 that's it, correct?

12 A. That's correct.

13 Q. OK. Now, you testified that you rely on secondary sources
14 only, correct?

15 A. Correct.

16 Q. Right. So if the secondary source is wrong, you are wrong,
17 correct?

18 A. Correct.

19 Q. And if the secondary source is right, you are right,
20 correct?

21 A. Correct.

22 Q. And you decide which secondary source you are going to rely
23 on, correct?

24 A. In general, yes.

25 Q. Right. And you, it would be fair to say, have a specific

1 bias when you read a secondary source; all of us do, but
2 certainly you admit you do, right?

3 A. I don't know what you mean by bias.

4 Q. All right.

5 A. I have sources that I trust more than others based on prior
6 experience.

7 Q. Thank you.

8 A. Yes.

9 Q. All right. Let's start with your prior experience.
10 You're a lawyer, you testified, correct?

11 A. Yes.

12 Q. Right. And you started your career, much like the
13 prosecutors here, by being a federal prosecutor, correct?

14 A. Yes.

15 Q. You worked for the United States Attorney's Office,
16 correct?

17 A. No. The Department of Justice environmental crimes
18 section. Environment and natural resources division.

19 Q. Right. You worked for the United States, correct?

20 A. Yes.

21 Q. And you worked for them as a prosecutor for about seven
22 years, correct?

23 A. Yes.

24 Q. OK. And after that, you went and got a job at something
25 called the Heritage Foundation, correct?

1 A. That was many years later.

2 Q. As many years later as it was, you got a job at the
3 Heritage Foundation, correct?

4 A. That's correct.

5 Q. Tell the jury what is the Heritage Foundation?

6 A. It's a think tank in Washington, D.C.

7 Q. What kind of think tank?

8 A. I'm not sure what you mean. It is a think tank that
9 advances generally conservative views on issues relating to
10 everything from tax policy to education to national security.

11 Q. Right. It's called, you would say, a conservative,
12 right-wing think tank, correct?

13 A. I would call it a conservative think tank.

14 Q. Not a right-wing think tank?

15 A. Not when I worked there.

16 Q. I didn't ask you when you worked there or not. My question
17 to you is, is the Heritage Foundation known as a conservative,
18 right-wing organization?

19 A. I don't know.

20 Q. You don't know?

21 A. It is a conservative think tank. It's a self-described
22 conservative think tank, yes.

23 Q. Let's talk about what agenda the Heritage Foundation
24 promoted. OK right?

25 MR. DENTON: Objection, your Honor.

1 THE COURT: Sustained.

2 MS. SHROFF: Your Honor, it shows bias.

3 THE COURT: Sustained.

4 BY MS. SHROFF:

5 Q. Is it fair to say, sir, that your bias includes minimizing
6 the risk of gun violence?

7 MR. DENTON: Objection.

8 THE COURT: Sustained.

9 BY MS. SHROFF:

10 Q. It minimizes climate change, correct?

11 THE COURT: Sustained. Try to stay to something
12 relevant, please.

13 MS. SHROFF: Your Honor, it is. Bias is always
14 relevant.

15 THE COURT: The objection has been sustained.

16 BY MS. SHROFF:

17 Q. When you worked for the Department of Homeland Security,
18 that was from 2005 to 2009, correct?

19 A. Yes.

20 Q. And that was under President George W. Bush, correct?

21 A. Yes.

22 Q. And when you worked for George W. Bush, you worked on
23 issues about border security and immigration, correct?

24 A. Amongst many others, yes.

25 Q. OK. And when President Obama got the job after George

1 Bush, you were fired from that administration, correct?

2 A. All political appointees leave their job at the end of a
3 presidential term, yes.

4 MS. SHROFF: I move to strike, your Honor, and I ask
5 that the witness be instructed to answer the question asked.

6 THE COURT: That was a good answer. The application
7 is denied.

8 BY MS. SHROFF:

9 Q. You were fired, correct?

10 A. No, I wasn't fired.

11 Q. You weren't fired by the Obama administration; you
12 continued to work for them?

13 A. Well, since you ask, I was asked to resign by the chief of
14 staff to President George W. Bush who told all political
15 appointees to submit letters of resignation that the Obama
16 administration was free to accept or reject, as they saw fit.

17 Q. They did accept yours, right?

18 A. A number of my colleagues continued on.

19 Q. Did they accept yours, sir?

20 A. Yes.

21 Q. Thank you.

22 Now, after you were let go by the Obama administration, you
23 then worked for Michael Chertoff or with Michael Chertoff;
24 that's when your relationship with Mr. Chertoff started,
25 correct?

1 A. Not immediately, no.

2 Q. Shortly thereafter?

3 A. It was about a year later that I took a senior adviser
4 position with them.

5 Q. OK. And is it fair to say, sir, that throughout 2007,
6 while you were working for the Bush administration, WikiLeaks
7 published many a material that was personally and
8 professionally embarrassing to the Bush administration?

9 A. I don't know about personally, but professionally for sure.

10 Q. Right. So WikiLeaks embarrassed the Bush administration by
11 publishing a copy of the standard operating procedures for the
12 Bush detention center, which is called Guantanamo Bay, correct?

13 A. That's correct.

14 Q. And George Bush wanted nothing more than to keep the
15 torture at Guantanamo Bay secret, correct?

16 MR. DENTON: Objection.

17 THE COURT: Sustained.

18 BY MS. SHROFF:

19 Q. Is it fair to say, sir, that for all the years you worked
20 for the Bush administration, WikiLeaks was nothing but a thorn
21 in their side?

22 A. I wouldn't know how they would characterize it. I wouldn't
23 characterize it that way.

24 Q. I see. Did you not personally believe that it was
25 important to keep Guantanamo Bay open and any information about

1 it should not be shared with the American public?

2 MR. DENTON: Objection.

3 THE COURT: Sustained.

4 MS. SHROFF: Your Honor, may we have a sidebar?

5 THE COURT: No.

6 MS. SHROFF: It's time for our lunch break anyway.

7 THE COURT: No. No. No. Go ahead.

8 BY MS. SHROFF:

9 Q. You worked for Lawfare, correct?

10 A. I still do, yes.

11 Q. And in 2005, you wrote a blog or an article for Lawfare,
12 correct?

13 A. I write for them all the time. I don't know which one
14 you're referring to. Yes.

15 Q. I'm referring to the one where you talked about the
16 hysterical claims of prisoner abuse. Does that ring a bell for
17 you?

18 A. Actually, no.

19 Q. OK.

20 A. But I certainly won't deny it if it's got my name on it.

21 Q. I see. So you remember writing an article. I'm going to
22 put it up for you so perhaps your recollection can be
23 refreshed.

24 MR. DENTON: Your Honor, I'm going to object to this
25 line of questioning.

1 MS. SHROFF: It goes to his bias, your Honor.

2 THE COURT: The objection is overruled.

3 We'll go a little bit longer. What's the question,
4 Ms. Shroff?

5 BY MS. SHROFF:

6 Q. The question is during the Bush administration, when
7 WikiLeaks released information about the conditions at
8 Guantanamo Bay, you objected, correct?

9 A. To what?

10 Q. I'm sorry.

11 A. I'm sorry. I objected to what?

12 Q. The release of the information. Right?

13 A. No.

14 Q. You didn't? You did not object to the release of
15 information and say that there was little evidence to back it
16 up and the information should not be made public?

17 A. In this article?

18 Q. No. I'm just asking generally. During that time frame, is
19 that not what your position was through the Bush
20 administration?

21 A. I'm sorry. What is the quote that you're reading? Or
22 could you read the quote again?

23 Q. You characterized, did you not, the claims about Guantanamo
24 Bay abuse as frequent and hysterical claims with little
25 evidence to back them up. Isn't that correct?

1 A. This is from 2005, which is before I was in the Bush
2 administration. You confused me by saying that.

3 Q. OK. Could you take a look at the highlighted section that
4 I put up for you?

5 A. Yes.

6 Q. You wrote that, right?

7 A. Yes.

8 Q. In the face of public information that WikiLeaks released
9 about the abuse at Guantanamo Bay, you wrote and called those
10 claims frequent and often hysterical, correct?

11 A. No. This article predates WikiLeaks's release of the
12 Guantanamo Bay information that you're talking about.

13 Q. OK.

14 A. So you've got the timing mixed up.

15 (Continued on next page)

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1 Q. Right. Let's try and see if you can help me out. The Bush
2 administration took great umbrage at the release by WikiLeaks
3 of any information about Guantanamo Bay, correct?

4 A. I didn't participate in that.

5 Q. You worked for the Bush administration, right?

6 A. It's 300,000 political appointees in every political
7 administration. WikiLeaks was not, during the administration,
8 that wasn't my issue.

9 Q. You are a WikiLeaks expert, sir.

10 A. I've been -- what do you want me to say? The judge has --
11 I've been qualified as one, yes.

12 Q. Right. And to qualify as an expert, you went back and
13 looked at all of the WikiLeaks posts, correct?

14 A. Correct.

15 Q. You read about their Twitter feed, correct?

16 A. Yes.

17 Q. You read about all of their exploits, correct?

18 A. Yeah.

19 Q. You put together charts, correct?

20 A. Yes.

21 Q. Right. And you're telling this jury that in all of that
22 work that you did, you did not go back and check to see if
23 WikiLeaks released information about Guantanamo Bay during the
24 Bush administration.

25 A. I did not say that.

1 Q. I'm asking you the question. Did you or did you not, as
2 the WikiLeaks expert, for the United States of America, review
3 that information?

4 A. WikiLeaks released information about Guantanamo Bay during
5 the Bush administration. Correct.

6 Q. Okay. Let's --

7 A. That's correct.

8 Q. Throughout your time studying WikiLeaks, you personally
9 have advocated, have you not, for stringent criminal laws to
10 prosecute Assange, correct?

11 A. I have advocated for the application of the espionage laws
12 in this context, yes.

13 Q. And the context is to prosecute Julian Assange, correct?

14 A. That's the possibility that was being discussed, yes.

15 Q. And you advocated for that, correct?

16 A. Correct.

17 Q. Right. And you wrote an online publication about that,
18 correct?

19 A. I wrote several publications, yes.

20 Q. Right. In 2010, you argued that the laws should be
21 updated, correct?

22 THE COURT: The law being?

23 MS. SHROFF: The law to prosecute Julian Assange.

24 Q. You advocated for that, correct?

25 A. The Espionage Act.

K243SCH3

Rosenzweig - Cross

- 1 Q. Yes.
- 2 A. The Espionage Act is out of date.
- 3 Q. That's your personal opinion, correct?
- 4 A. It's mine and many others; but yes, it is mine.
- 5 Q. We're only talking about you, sir, today.
- 6 A. That's right.
- 7 Q. Okay. It's yours, right?
- 8 A. Yes.
- 9 Q. Okay. Congress hasn't listened to you and updated right
10 now, correct?
- 11 A. Not yet, no.
- 12 Q. So, in 2013, correct, you wrote an article about it,
13 correct?
- 14 A. I think it was 2010, but --
- 15 Q. Okay. In 2010, you wrote about it, and you thought that
16 the American government should shut down WikiLeaks, correct?
- 17 A. I don't remember what I -- what precisely I said in the
18 article.
- 19 Q. All right. Well, you're here now. Do you think the
20 American government should shut down WikiLeaks?
- 21 A. No.
- 22 Q. You do not now think that the American government should
23 shut down WikiLeaks?
- 24 A. No.
- 25 Q. So as the WikiLeaks expert who just testified about all the

1 harm to the United States, your position is that the United
2 States government should not shut down WikiLeaks?

3 A. No.

4 Q. Okay. "No" meaning that's not your opinion?

5 A. No meaning that the -- no, meaning you're correct. I do
6 not think today that the U.S. government should shut down
7 WikiLeaks.

8 Q. So according to your expertise, WikiLeaks website should
9 remain up, correct?

10 A. If that's the consequence of not shutting them down, yes.

11 Q. It should allow for the dissemination of information,
12 correct?

13 A. Some, yes.

14 Q. Well, only some?

15 A. I do not think that the U.S. government should be in the
16 business of shutting down a private organization. I do think,
17 however, that individuals in that private organization should
18 be responsible for what they publish, and if in doing so they
19 violate the law, then they should suffer those legal
20 consequences.

21 So what I've come to conclude is that there is a
22 balance between freedom and transparency on one hand and the
23 criminal law on the other. So case-by-case basis is my best
24 answer for you.

25 Q. I see. So, your testimony today is that WikiLeaks is a

1 private organization. Correct?

2 A. It's not a governmental organization.

3 Q. Just a simple yes or no will do the job and will go faster
4 for you, sir, okay?

5 A. Yes.

6 Q. So it is a private organization?

7 THE COURT: He said it's a private organization.

8 Q. Right?

9 A. Yes.

10 Q. It releases information, correct?

11 A. Correct.

12 Q. And as you testified on direct, it works with other
13 newspapers at times to properly publish this information,
14 correct?

15 A. It has in the past, yes.

16 Q. So it's worked with The New York Times, correct?

17 A. In the past, yes.

18 Q. Right. You don't know what it's going to do in the future?

19 A. That's right.

20 Q. So it's worked with The Wall Street Journal, correct?

21 A. I don't remember that one.

22 Q. Okay. Well, let's try, since you are the expert, tell us
23 what are the newspapers it's worked with.

24 A. I know it's worked with The Times, The Washington Post, it
25 has work in the past with The Guardian in the U.K.

1 Q. And you agree then now that WikiLeaks serves a purpose,
2 correct?

3 A. Yes.

4 Q. Now, at times, when these other newspapers such as the ones
5 you just mentioned, for example, Washington Post, when The
6 Washington Post published information that you did not like,
7 you also wrote an editorial and called it "Stop Leaking,"
8 correct?

9 A. Correct.

10 Q. Right. And that was The Washington Post that published a
11 transcript of President Donald Trump's phone calls with foreign
12 leaders, correct?

13 A. Correct.

14 Q. And you wrote with great umbrage and told The Washington
15 Post and others to stop publishing this information, correct?

16 A. Incorrect.

17 Q. Okay.

18 A. I said that the people who were releasing it to The Post
19 should stop doing so. The Post as a news organization is not
20 who I was talking to. It was to the members of the NSC who
21 were leaking the transcripts of the president's calls.

22 Q. Right. And --

23 THE COURT: Ms. Shroff, would this be a convenient
24 place to break for lunch?

25 MS. SHROFF: Whenever the Court wants.

1 THE COURT: We're going to take a break now. We'll
2 resume around 1:30.

3 (Jury excused)

4 THE COURT: Mr. Rosenzweig, don't talk to the
5 government's attorneys.

6 THE WITNESS: Wouldn't think of it, your Honor.

7 THE COURT: Thank you. See you at 1:30.

8 (Recess)

9 (Continued on next page)

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K243SCH3

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AFTERNOON SESSION

1:40 p.m.

(In open court; jury not present)

THE COURT: Before we bring the jury in, Ms. Shroff, is there something that happened at lunchtime that you want to call to my attention?

MS. SHROFF: Oh yes, your Honor. I did call Mr. Gonzalez. Should I put it on the record now?

THE COURT: Do you want to put it on the record? Put it on the record now, yes.

MS. SHROFF: Your Honor, we had thought everybody, all of the jurors had left the courtroom.

THE COURT: Yes.

MS. SHROFF: I was speaking to I believe my colleagues and my expert.

THE COURT: Yes.

MS. SHROFF: When I turned around, I saw that one of the jurors had walked back in.

THE COURT: Yes.

MS. SHROFF: I told my expert to stop talking. And I, we all stopped talking, and then we called Mr. Gonzalez.

THE COURT: What do you want me to do?

MS. SHROFF: I don't want you to do anything. I'm letting you know. I forgot to let the government know. I just wanted to let you know.

K243SCH3

1 THE COURT: Do you know which juror it was?

2 MS. SHROFF: I think so. I think it was the juror
3 with the cane, because it took a while for the person to leave.
4 But I really was freaked out, so I didn't pay a lot of
5 attention to who it was, to be honest.

6 THE COURT: That's Ms. Gallo I think.

7 MS. SHROFF: I think it was the last alternate.
8 Somehow or other she had returned back to the courtroom for
9 some reason.

10 THE COURT: Do you think she heard anything?

11 MS. SHROFF: I don't know. Honestly, I was talking
12 toward my expert and when I turned is when I saw her.

13 THE COURT: Which voice were you using, your low
14 voice, your medium voice?

15 MS. SHROFF: I don't have a low voice, your Honor. It
16 is the one voice, the voice that my mother gave me. That's all
17 I got. I'm pretty sure she heard me, whatever I was saying.

18 THE COURT: What were you talking about?

19 MS. SHROFF: I think I might have been asking how did
20 I do on cross. I don't know. I mean, you know. I really
21 don't remember.

22 THE COURT: I'm being serious now. If you were
23 transmitting confidential information or legal requirements,
24 legal information, I'd go one way. If you were just saying how
25 am I doing, and trying to be Ed Koch, how am I doing.

K243SCH3

1 MS. SHROFF: I don't know who Ed Koch is, but I don't
2 think I was transmitting. I don't think -- I think we were
3 just making general convo, normal stuff, like oh my God, I
4 can't believe I have to do this.

5 THE COURT: Okay. Well, you put it on the record.
6 I'm not going to do anything.

7 MS. SHROFF: Thank you, your Honor. It was truly
8 inadvertent, obviously.

9 (Continued on next page)

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1 (Jury present)

2 THE COURT: Ms. Shroff.

3 MS. SHROFF: Thank you, your Honor.

4 BY MS. SHROFF:

5 Q. Mr. Rosenzweig, I am going to turn to Government Exhibit
6 1702 that you helped prepare, okay?

7 A. Yes.

8 Q. If you could just take a look at the first page of the
9 demonstrative.

10 A. Yes.

11 Q. This is the compilation that you put together along with
12 the prosecutors, correct?

13 A. They assisted me in putting it together, yes.

14 Q. Okay. And the logo on the top-left side, is that your logo
15 or the WikiLeaks logo?

16 A. The WikiLeaks logo.

17 Q. So you took WikiLeaks' logo and implanted it on your
18 demonstrative; is that correct?

19 A. It's, yes.

20 Q. If you could, who chose these, OPCW Douma, Fishrot, Popes
21 Orders. Did you pick it?

22 A. WikiLeaks did.

23 Q. Who picked it?

24 A. That's a screen shot of the first page as it existed on the
25 day I screen shot it. So that, whatever was on the front page

K243SCH3

Rosenzweig - Cross

1 from WikiLeaks is what I depicted here.

2 Q. And is it fair to say that you put this compilation
3 together and sent it to the prosecutors, correct?

4 A. I gave them some ideas, they sent back a draft, I fixed it,
5 yes.

6 Q. You and the prosecutors e-mailed each other back and forth
7 about this, yes?

8 A. We spoke about it. I must have sent them an e-mail as
9 well, yes.

10 Q. If you could just take a look at the page that's titled
11 "notable leaks before 2017."

12 A. Yes.

13 Q. That's your compilation, correct?

14 A. That's correct.

15 Q. WikiLeaks has never put it together this way, correct?

16 A. That's correct.

17 Q. So the WikiLeaks logo on the left side is not really the
18 WikiLeaks logo. It's you putting the logo on there, correct?

19 A. That's correct.

20 Q. And you decided which one of these topics to highlight,
21 correct?

22 A. Yes.

23 Q. You could have picked any of them, correct?

24 A. I picked the most notable ones.

25 Q. Right. That you thought were most notable?

K243SCH3

Rosenzweig - Cross

1 A. That's correct.

2 Q. Okay. It's the same for almost every one of the pages
3 where the WikiLeaks logo is on the left side, correct?

4 A. That's correct.

5 Q. So let's go to the one where it says WikiLeaks and
6 Anonymous. You don't know anything about anonymous either,
7 correct?

8 A. I'm sorry, I don't understand.

9 Q. Okay. You ever met anybody who is in the Anonymous hacker
10 group?

11 A. Yes.

12 Q. Did you talk to them about putting this demonstrative
13 together?

14 A. No.

15 Q. So when you picked out this quote, "We Anonymous just
16 happen" blah, blah, blah, you decided to put that quote on,
17 correct?

18 A. That's correct.

19 Q. And nobody told you to have a different quote or put
20 something different on your demonstrative, because you only
21 discussed it with the government, right?

22 A. The government didn't tell me what to put on either. But
23 yes, nobody told me what to put on.

24 Q. Now, let's go to this page where it says "Instruction to
25 leakers: overview."

K243SCH3

Rosenzweig - Cross

- 1 A. There are two of those. Which one do you want?
- 2 Q. Let's start with the first one. Do you see it says "submit
3 documents to WikiLeaks"?
- 4 A. Yes.
- 5 Q. That's on the WikiLeaks website, correct?
- 6 A. Correct.
- 7 Q. You never tried to upload a document to WikiLeaks, correct?
- 8 A. That's correct.
- 9 Q. And so you don't know if this actually works out properly,
10 right?
- 11 A. Oh, no. I did go to the web page.
- 12 Q. I didn't ask you if you went to the web page. I am asking
13 if you know how to upload a document to WikiLeaks.
- 14 A. You asked me if I uploaded documents, the answer is no, but
15 the web page address does work.
- 16 Q. I didn't ask you if the address worked. I am asking if the
17 actual process of uploading works. You've never tried it,
18 correct?
- 19 A. That's correct.
- 20 Q. You don't know if it works, correct?
- 21 A. That's correct.
- 22 Q. Next one, "Instructions to leakers: overview." Right?
- 23 A. Yes.
- 24 Q. When you talked about this IP address, you testified this
25 is an unusual IP address; is that right?

K243SCH3

Rosenzweig - Cross

- 1 A. I don't think I used the word "unusual."
- 2 Q. Okay. What word did you use?
- 3 A. It's not the typical one that the average citizen would
4 see.
- 5 Q. Okay.
- 6 A. It is a specific address for the Tor Onion network.
- 7 Q. So let's talk about this. Tor and Onion network. Where
8 does Tor come from?
- 9 A. It was invented by the U.S. government.
- 10 Q. The United States government invented Tor?
- 11 A. Yes.
- 12 Q. Okay. Which part of the United States government?
- 13 A. I think it was the Navy, but I'm not one -- I don't have
14 100 percent recollection. I think it was the Navy.
- 15 Q. Right. So the Tor was invented by the U.S. Navy, correct?
- 16 A. By the U.S. government. I am not 100 percent sure it was
17 the Navy.
- 18 Q. Who funds it now, Department of Defense?
- 19 A. Tor now? No, Tor is operated by the Tor Project, which is
20 an independent organization.
- 21 Q. Who contributes to its activity?
- 22 A. They take donations from people who use it. You could give
23 them money if you wanted.
- 24 Q. Do you know if the Department of Defense helps them out?
- 25 A. I don't know.

K243SCH3

Rosenzweig - Cross

- 1 Q. Do you know if the State Department helps them out?
- 2 A. I believe they do. I believe I read reports that they do.
- 3 Q. The State Department you know helps them out, correct?
- 4 A. No, I believe I've read reports that they do.
- 5 Q. Okay. But you testified before that whatever reports you
- 6 read, you then make a decision whether to believe them or not,
- 7 correct?
- 8 A. That's correct.
- 9 Q. Right. So do you believe that report or you don't?
- 10 A. I've never actually formed an opinion about that.
- 11 Q. You are testifying as the WikiLeaks expert today before
- 12 this jury.
- 13 A. You are asking me about Tor and its funding.
- 14 Q. Right. But WikiLeaks is talking about Tor, right?
- 15 A. Yes.
- 16 Q. You testified all about Tor when Mr. Denton was asking you
- 17 these questions, correct?
- 18 A. Yes.
- 19 Q. Did they ask you who funds Tor?
- 20 A. No, they didn't.
- 21 Q. Okay. How about Tails?
- 22 A. What about it?
- 23 Q. Who funds Tails?
- 24 A. I don't know.
- 25 Q. Did you ever try to find out, as the national security

K243SCH3

Rosenzweig - Cross

1 expert that you are, who contributes money to Tails?

2 A. No.

3 Q. Okay. I am assuming that in all of the times you testified
4 before Congress, you never asked them or they asked you who
5 funds Tor, correct?

6 A. No.

7 Q. Okay. So let's talk about Tor. Who else uses Tor,
8 according to you?

9 A. Who else besides WikiLeaks?

10 Q. Yeah.

11 A. Wide range of institutions and organizations. Some
12 malicious, like criminals and terrorists; some well meaning,
13 like journalists and protest groups.

14 Q. So let's start with the well meaning. How about The New
15 York Times?

16 A. I don't know.

17 Q. How about Wall Street Journal?

18 A. I don't know.

19 Q. How about the Department of Defense?

20 A. I assume so, but I don't know.

21 Q. How about the State Department?

22 A. I don't know.

23 Q. How about you?

24 A. Yes.

25 Q. You use Tor?

1 A. Yes.

2 Q. Okay. Now, let's turn to this page that you see, "Tor the
3 Onion router." You testified about how Tor works. You put
4 this slide together?

5 A. This one?

6 Q. Right.

7 A. The graphic is from the Electronic Freedom Foundation, and
8 the Tor logo is from Tor.

9 Q. Right. You put together this demonstrative, correct?

10 A. Yes.

11 Q. You had no idea if this is how Tor actually works, correct?

12 A. No.

13 Q. You don't know if Alice is really going through that plus,
14 plus, plus and getting to Bob or getting to Jane. In fact, you
15 don't know anything about this demonstrative, correct?

16 A. Literally thousands of articles have been written about how
17 Tor operates. And this is a depiction of how every one of
18 those articles says it operates. Including articles -- well.
19 So, no, I don't code Tor. But yes, this is how it operates.

20 Q. You don't know this is how it operates.

21 A. Yes, this is how it operates.

22 Q. You do know how Tor operates?

23 A. As I said, every secondary source that I know of says that
24 this is how it operates.

25 Q. Okay. So if you were to read a secondary source on heart

K243SCH3

Rosenzweig - Cross

1 surgery, you would know how heart surgery works, according to
2 you?

3 A. No.

4 Q. Okay. Let's move on from Tor. Let's move to Tails. You
5 use Tails?

6 A. I've tried it once, but no, I don't use it routinely.

7 Q. How about The New York Times?

8 A. Don't know.

9 Q. Wall Street Journal?

10 A. Don't know.

11 Q. Law 360?

12 A. Don't know.

13 Q. Daily News?

14 A. No, don't know.

15 Q. Washington Post?

16 A. Don't know.

17 Q. United States attorney's office?

18 A. I don't know.

19 Q. Let's go to the screen that says "instructions to leakers:
20 tips."

21 By the way, do you know if the CIA uses Tor?

22 A. I don't know.

23 Q. You read this, you testified about this page, correct, on
24 direct?

25 A. Yes.

K243SCH3

Rosenzweig - Cross

1 Q. And basically, you read what was written on the screen,
2 right?

3 A. That was what I was asked to do, yes.

4 Q. And then you said that this is WikiLeaks' explanation,
5 correct?

6 A. I said this is what WikiLeaks has published.

7 Q. Okay.

8 A. Yes.

9 Q. Right. Beyond that, you don't really know much, right,
10 about this screen?

11 A. Like what? I'm sorry, I don't understand the question.

12 Q. Well, you don't really know if it works, right? That if a
13 person has a very large submission, with a complex format, this
14 is how you should move forward. You don't know in if this
15 works, right?

16 A. I know what's here. I know they say contact us.

17 Q. Right. So if a juror read it, you basically know what a
18 juror knows by reading this screen?

19 A. In this particular screen, it's self-explanatory, yes.

20 Q. That's not what I asked you. I asked you if you know
21 anything more than the average reader of this screen knows.

22 A. For this screen?

23 Q. Yes.

24 A. No.

25 Q. Okay. Let's go to the screen that says "solicitation of

K243SCH3

Rosenzweig - Cross

1 classified information." The first line that you have there,
2 "WikiLeaks as a whole, and Assange in particular, has actively
3 promoted leaking of classified information."

4 You just wrote that sentence up, right?

5 A. I wrote that sentence, yes.

6 Q. Okay. That's it, right, you wrote it?

7 A. That's my summary, yes.

8 Q. Right. You put the WikiLeaks logo on there and then you
9 wrote that sentence?

10 A. Yes.

11 Q. Okay. And then you pulled out two quotes, and you put
12 those in, correct?

13 A. Correct.

14 Q. Okay. And you chose the quotes, right?

15 A. Yes.

16 Q. And one of the quotes you chose was specifically about this
17 language about the CIA, right?

18 A. Correct.

19 Q. And you knew this case was about the CIA, correct?

20 A. Correct.

21 Q. And you work for the United States attorney's office,
22 correct?

23 A. I'm contracted to them as an expert witness, yes.

24 Q. By the way, how much do they pay you per hour?

25 A. \$400 an hour.

K243SCH3

Rosenzweig - Cross

- 1 Q. \$400 an hour to talk to them?
- 2 A. Yes.
- 3 Q. \$400 every time you e-mail them?
- 4 A. I don't charge for every minute I spend.
- 5 Q. Okay. \$400 an hour to testify here today?
- 6 A. Yes.
- 7 Q. Who paid for you to come up?
- 8 A. They'll pay, they'll reimburse me the expenses.
- 9 Q. Who pays for you to stay over?
- 10 A. The U.S. attorney's office will reimburse me for the
- 11 expenses.
- 12 Q. Okay. And they paid you for putting all of this together,
- 13 right?
- 14 A. Yes.
- 15 Q. They paid you for researching the quotes?
- 16 A. Yes.
- 17 Q. They paid you for the compilation?
- 18 A. Yes.
- 19 Q. Let's look at the next screen where it talks about leak
- 20 practices. You said "WikiLeaks practices with respect to
- 21 redaction are inconsistent." Right?
- 22 A. Yes.
- 23 Q. Your opinion, correct?
- 24 A. Yes.
- 25 Q. You're not a statistician, correct?

K243SCH3

Rosenzweig - Cross

1 A. Not a statistician, no.

2 Q. And you didn't contract out a statistician to help you come
3 to that conclusion, correct?

4 A. No.

5 Q. So basically, you looked at WikiLeaks, you couldn't figure
6 out a pattern to the redactions, so you said the redactions are
7 inconsistent, right?

8 A. No.

9 Q. You didn't see a pattern, right?

10 A. That's correct.

11 Q. Okay. So, when you didn't see a pattern, you didn't
12 contact a statistician. You just concluded that they were
13 inconsistent?

14 A. No.

15 Q. Okay. So tell us what you did.

16 A. I reviewed all of them, and then I reviewed the other
17 people's analysis of them. There is a longstanding series of
18 articles that have reviewed WikiLeaks' redaction patterns, and
19 most of those reach the same conclusion. So I also relied on
20 secondary sources that support this summary.

21 Q. Okay. So you looked at other people's analysis of the
22 pattern of redactions, and then you decided that the pattern of
23 redaction was inconsistent?

24 A. I looked at other people's analysis, I looked at the
25 historical materials myself, and both of those led me to the

1 conclusion that WikiLeaks has been inconsistent in its
2 application of redaction rules.

3 Q. So if the underlying source is wrong, you are wrong.

4 A. This isn't a -- well, that's always true. But this isn't
5 an underlying source. I read the original materials on
6 WikiLeaks' website as well as reading secondary sources, so
7 it's not exclusively the secondary sources.

8 Q. So you looked at WikiLeaks' redaction pattern from 2006 all
9 way to 2020, you made a graph and a chart, and then you came to
10 this conclusion?

11 A. No.

12 Q. So, where is the math?

13 A. I don't think it needs math to say that something is
14 inconsistent.

15 Q. Exactly. So you didn't have any math, you didn't have any
16 stats, and you just didn't find a pattern, so you call it
17 inconsistent.

18 A. I think that anybody who reviews it would reach the same
19 conclusion. But if they wanted to say there was a consistency,
20 we could have a discussion about that.

21 Q. Okay. All right. Let's move on. When you say "WikiLeaks
22 performs minimal, if any, analysis," again, your conclusion?

23 A. My conclusion, that of the secondary sources, based upon
24 the review of what WikiLeaks has published, and what others
25 have written about what they've published, yes.

K243SCH3

Rosenzweig - Cross

1 Q. And you said "WikiLeaks does not review all leaked material
2 it posts." You have no way to know that, right?

3 A. That's what WikiLeaks has said.

4 Q. Right.

5 A. So I assumed that when they declare it -- perhaps they are
6 lying about that as well.

7 Q. Okay.

8 A. So perhaps it should say "WikiLeaks says it does not review
9 all leaked materials it posts."

10 But it seems to be consistent with their practices as
11 well.

12 Q. You think it's consistent?

13 A. What?

14 Q. You think it's consistent?

15 A. It appears as though they have not done that in the past.
16 Yes.

17 Q. Okay. The next sentence you have, you have "WikiLeaks
18 sometimes partners with traditional media organizations."

19 A. Correct.

20 Q. Right? And then you have "WikiLeaks takes steps to protect
21 the identity of sources." Correct?

22 A. That's correct.

23 Q. And then you have "The vast majority of WikiLeaks
24 disclosures target the United States." Correct?

25 A. Correct.

K243SCH3

Rosenzweig - Cross

1 Q. Okay. Let's talk about that. The first set of documents
2 that WikiLeaks ever released had to do with what nation?

3 A. Somalia.

4 Q. And not America?

5 A. Somalia is not America, yes.

6 Q. One thing we agree on. It published information about a
7 Somali rebel leader's plans to assassinate Somali government
8 officials, correct?

9 A. That's right, yes.

10 Q. It published information identifying a corrupt Kenyan
11 leader named Mwai, correct?

12 A. That's correct. That was in 2007 I think.

13 Q. Right. And you didn't include that in your presentation,
14 right?

15 A. No.

16 Q. Okay. How about the fact that WikiLeaks published
17 documents revealing corruption in Peru around the management of
18 Peru's oil resources?

19 A. That's correct.

20 Q. You didn't put that in here either, right?

21 A. No.

22 Q. Published a report detailing a nuclear accident in Iran,
23 correct?

24 A. I don't remember that one. But I don't disagree with you.

25 Q. You didn't put it in?

1 A. No.

2 Q. Okay. Published documents related to arms deals between a
3 French company and the UAE, United Arab Emirates, correct?

4 A. I believe that's correct, yes.

5 Q. Of course it is. You didn't put it in, right?

6 A. No.

7 Q. Okay. How about all of those e-mails about the French
8 presidential campaign of Macron?

9 THE COURT: Of what?

10 MS. SHROFF: Emmanuel Macron.

11 Q. Did you put them in?

12 A. No.

13 Q. Oh. What country is that?

14 A. The French president is France.

15 Q. Right. You didn't put that in either, right?

16 A. No.

17 Q. So you have France, Peru, Iran, Africa. You didn't put any
18 of those in, right?

19 A. No.

20 Q. Let's keep going. How about all of the information
21 WikiLeaks publishes about non-governmental entities. Focus on
22 those at all, or no, skip those?

23 A. Not for this case, no.

24 Q. Not for this case?

25 A. No.

1 Q. You are the WikiLeaks expert, right? You want to give a
2 fair and balanced opinion of WikiLeaks, right? Or no, you want
3 to support the government here. I'll take that back. Let's
4 just focus on what you didn't focus on.

5 How about Apple. How about Apple's restrictive
6 contracts with the iPhone application developer that WikiLeaks
7 released. Did you talk about that?

8 A. No.

9 Q. How about documents that WikiLeaks released that relate to
10 the Church of Scientology?

11 A. No.

12 Q. By the way, did you do a harm analysis on those documents?

13 A. Not for this case, no.

14 Q. Ever?

15 A. No.

16 Q. Okay. How about WikiLeaks' publishing of documents showing
17 the internal power struggle with the Catholic Church?

18 A. I did not include them. I assume there is a question. But
19 no, I did not include them.

20 Q. So, we have at least five or six governments, and I'm not a
21 WikiLeaks expert. I mean, I just Googled it and found this.
22 But there could be a whole ton of other countries, right?

23 THE COURT: Ms. Shroff, could you not testify, please.

24 MS. SHROFF: Sure.

25 Q. Sitting here today you are aware, right, that WikiLeaks

1 publishes information all over the world, right?

2 A. It does.

3 Q. Okay. Let's turn to the WikiLeaks Twitter feed, shall we.

4 You testified about that, right? You testified about the first
5 slide which looks like this one.

6 A. Yup.

7 Q. That started on February 4, correct?

8 A. Yes.

9 Q. As a WikiLeaks expert, do you know if the FBI follows the
10 WikiLeaks' Twitter?

11 A. I do not know.

12 Q. Do you know if the CIA follows the WikiLeaks' Twitter?

13 A. I do not know.

14 MR. DENTON: I am going to object to this, your Honor.

15 THE COURT: Overruled.

16 Q. You testified, sir, that you did not read Vault 7 because
17 it was code, correct? You don't understand code?

18 A. No, I testified I didn't read it because it was classified
19 and because that wasn't the subject of my expertise today. As
20 it happens, I probably wouldn't understand the code if I did
21 read it, as I -- to the extent I understand what's in it, seems
22 it's beyond my understanding, yes.

23 Q. He's charged with stealing Vault 7 information, correct?

24 A. He who?

25 Q. Mr. Schulte.

K243SCH3

Rosenzweig - Cross

- 1 A. I don't know which one Mr. Schulte is.
- 2 Q. Okay. I didn't ask if you knew who Mr. Schulte was.
- 3 A. Oh, yeah.
- 4 Q. I simply asked if you knew that's what you knew the charges
5 to be.
- 6 A. That's what I understand the case is about, yes.
- 7 Q. And you testified that you wouldn't understand Vault 7
8 anyway because it was code, right?
- 9 A. I personally would probably not be able to understand it.
- 10 Q. Did you know that there's no code in Vault 7?
- 11 A. I don't know what's in Vault 7.
- 12 Q. Did you read The New York Times articles about Vault 7?
- 13 A. Probably did at the time they came out.
- 14 Q. Okay. Did you read The Wall Street Journal articles about
15 Vault 7?
- 16 A. I don't read The Journal regularly, no.
- 17 Q. Okay. So, you read The New York Times articles about
18 Vault 7, right?
- 19 A. Probably did when they came out, but I don't remember.
- 20 Q. And when you were retained here on this case, you knew it
21 was about Vault 7 and Vault 8, right?
- 22 A. Of course.
- 23 Q. And you took no steps to find out whether or not you were
24 able to read the disclosure of Vault 7 and Vault 8?
- 25 A. I wasn't asked to, no.

K243SCH3

Rosenzweig - Cross

1 Q. And you only did what you were asked to do, correct?

2 A. That's correct.

3 Q. Let's look at the slide where you have "How did Vault 7
4 make its way to WikiLeaks." You included that slide, correct?

5 A. Yes.

6 Q. Okay. You have no idea how Vault 7 made its way to
7 WikiLeaks, right?

8 A. None.

9 Q. None. You don't know how it got to WikiLeaks, correct?

10 A. No.

11 Q. You don't know if Russia sent it to WikiLeaks, correct?

12 A. No.

13 Q. You just put the slide on there because you thought it
14 would make a nice presentation?

15 A. No.

16 Q. Oh. Okay. Let's look at the next one. You see Vault 7,
17 the CIA logo there, and the Twitter feed up top?

18 A. Yes.

19 Q. You took a screen shot and put it as part of your
20 demonstrative, correct?

21 A. Yes.

22 Q. And you testified that you did not read any single
23 disclosure, correct?

24 A. That's correct.

25 Q. Okay. So you had no idea whether there's code, language,

1 articles, or whatever else is in each one of these.

2 Can you move to the next screen, please. Next one.

3 I am just going to ask you any one of these, right.

4 So Hive, Weeping Angel, Scribbles, After Midnight, Athena. You
5 don't know what's in it at all. Nobody asked you to verify?

6 A. That's correct.

7 Q. You don't know what's in them?

8 A. I only know what the Twitter feed says is in them.

9 Q. Right. So as far as you know, there's no harm that you can
10 testify to from these leaks, correct?

11 A. I have no idea.

12 Q. Good to know.

13 MS. SHROFF: You can take that down, thank you.

14 Q. Let me ask you this. As the WikiLeaks expert here today,
15 do you keep a list of all the awards and recognition that
16 WikiLeaks has received for its journalistic work?

17 A. I have reviewed all that. I keep a list, I don't keep a
18 record, but I am aware of that, yes.

19 Q. You didn't put it in a slide show?

20 A. No.

21 Q. How many times was WikiLeaks nominated for the Nobel Peace
22 Prize?

23 A. I don't know the number.

24 Q. You are the WikiLeaks expert. You don't know how many
25 times it was nominated for the Nobel Peace Prize?

1 THE COURT: I guess not.

2 MS. SHROFF: I withdraw that question, your Honor.

3 THE COURT: Yes, I'm glad.

4 Q. Do you know how many other awards WikiLeaks has won?

5 A. Dozens.

6 Q. Dozens. Do you know it won the Amnesty International News
7 Media award?

8 A. Yes.

9 Q. How many times?

10 A. I think twice, but I'm not sure.

11 Q. And do you know what it won for?

12 A. I'm sorry, what what was for?

13 Q. What was the award for. Which disclosure; do you know?

14 A. I don't remember.

15 Q. Didn't put it in the slide show?

16 A. No.

17 Q. 2013, it won an award; do you remember that?

18 A. Don't remember.

19 Q. Okay. Mr. Rosenzweig, you were contacted as an expert for
20 this case because your colleague was a professor of
21 Mr. Denton's, correct?

22 A. That's my understanding. I don't know for sure. Yes.

23 Q. So he asked his professor, and his professor sent him to
24 you, and you were delighted to make that introduction, correct?

25 A. That's my understanding, yes.

1 Q. And you sitting here today have zero personal knowledge
2 about this case, correct?

3 A. Except what I've read in the indictment, that's correct.

4 Q. You've never met Mr. Schulte, correct?

5 A. As I said, correct.

6 Q. You've never spoken to Mr. Schulte, correct?

7 A. I don't believe so, no.

8 Q. Sitting here today, you have no idea if Mr. Schulte
9 accessed any information, let alone classified information,
10 correct?

11 A. I have no knowledge of that.

12 Q. And sitting here today, you have absolutely zero knowledge
13 about whether or not Mr. Schulte ever communicated with
14 WikiLeaks, correct?

15 A. I have no information on that.

16 Q. In fact, you have no idea how Vault 7 and Vault 8 got to
17 WikiLeaks, correct?

18 A. I do not.

19 MS. SHROFF: I have nothing further.

20 THE COURT: Mr. Denton.

21 MR. DENTON: Very briefly, your Honor.

22 REDIRECT EXAMINATION

23 BY MR. DENTON:

24 Q. Mr. Rosenzweig, Ms. Shroff asked you a moment ago whether
25 you had conducted a harm analysis in this case. Do you

1 remember that?

2 A. Yes.

3 Q. Were you asked to do that?

4 A. No.

5 Q. I think you said you did what you were asked to do, right?

6 A. That's correct.

7 Q. What were you asked to do?

8 A. I was asked to provide the United States and the jury with
9 an overview of WikiLeaks, its history, past instances in which
10 consequences had been identified, and a summary of the
11 assertions it had made through the public -- through the
12 posting of information to its Twitter feed.

13 MR. DENTON: Ms. Hurst, can we put up Government
14 Exhibit 1702 and go to page five, please.

15 Q. Mr. Rosenzweig, do you remember Ms. Shroff asking you a
16 series of questions about time you spent in the Heritage
17 Foundation?

18 A. Correct.

19 Q. And about potential biases that the Heritage Foundation
20 might have?

21 A. Yes.

22 Q. In 2010, when President Felipe Calderón said WikiLeaks
23 caused severe damage to diplomatic relations, was he a member
24 of the Heritage Foundation?

25 A. No.

K243SCH3

Rosenzweig - Redirect

1 Q. You were asked a series of questions about your time in the
2 Bush administration. Do you remember that?

3 A. Yes.

4 Q. Who was president when Cablegate happened?

5 A. President Obama was president when that release happened.

6 Q. Did the fact that Barack Obama was president when this
7 happened affect your view of the consequences of the
8 disclosure?

9 A. No.

10 Q. Do you remember Ms. Shroff asked you some questions about
11 an article you wrote about leaking of a transcript to The
12 Washington Post?

13 A. Yes.

14 Q. Why was that something you were concerned about?

15 A. I was concerned because too many people were leaking
16 information to the press in response to perceived pressures,
17 what they perceived as necessity because of their disagreement
18 with President Trump's views.

19 My point was that even if you thought that you didn't
20 like President Trump's policy, leaking classified information
21 like confidential calls with -- like the transcripts of
22 confidential calls with governments, was not the way to redress
23 that.

24 Q. What's problematic about leaking information like that?

25 A. Well, it breaks -- it breaks the classification

1 requirements, it's probably against the law, and in the end, if
2 we cannot, as I said with respect to the WikiLeaks leaks, that
3 we were talking earlier, if we cannot assure people we interact
4 with of the confidentiality of the discussions, people stop
5 talking to us. It degrades the government's ability to act.

6 MR. DENTON: Nothing further, your Honor.

7 MS. SHROFF: May I, your Honor?

8 THE COURT: No. You are excused, Mr. Rosenzweig.

9 MS. SHROFF: Your Honor, I have recross.

10 THE COURT: Okay. No. Direct, cross, redirect. Call
11 your next witness.

12 (Witness excused)

13 MR. LAROCHE: Your Honor, the government calls Special
14 Agent Steven Deck.

15 (Continued on next page)

16
17
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25

1 STEVEN DECK,

2 called as a witness by the government,

3 having been duly sworn, testified as follows:

4 THE COURT: Go ahead, Mr. Laroche.

5 MR. LAROCHE: Thank you, your Honor.

6 DIRECT EXAMINATION

7 BY MR. LAROCHE:

8 Q. Special Agent Deck, where do you work?

9 A. At the FBI office here in New York.

10 Q. And how long have you worked at the FBI?

11 A. Just a little over ten years.

12 Q. What's your current title?

13 A. My current title is special agent.

14 Q. Do you work within a particular division of the FBI?

15 A. I do. I work within the counterintelligence division here
16 in New York.

17 Q. And generally speaking, what does the counterintelligence
18 division do?

19 A. So, we're charged with protecting the national interest of
20 the United States and then effecting investigations along those
21 lines. So we essentially investigate foreign-intelligence
22 threats here in the U.S., which are agencies, other countries'
23 version of the CIA that may have a presence here. So we
24 investigate them, arrest them if necessary, possibly expel them
25 from the country.

1 And then we also investigate people who may have misused
2 their access to U.S. information, classified information, and
3 we call that espionage investigations.

4 Q. Do you work on a particular squad within the
5 counterintelligence division?

6 A. I do. It's called CD-6.

7 Q. Generally speaking, what is an FBI squad?

8 A. It's a group of about anywhere from approximately six to
9 ten people. We refer to them as squads. Private sector, most
10 of the time call them teams. Where we work, we address the
11 same threat, same type of investigations and normally have one
12 supervisor.

13 Q. You said you work on the squad CD-6, is that right?

14 A. Correct.

15 Q. What does that squad do?

16 A. So, we're tasked with investigating espionage-related
17 allegations, economic espionage, as well as unauthorized
18 disclosures.

19 Q. The unauthorized disclosure of what?

20 A. Classified information.

21 Q. Where is the squad CD-6 physically located?

22 A. We're at the federal building here in downtown Manhattan.

23 Q. Is that within the New York field office of the FBI?

24 A. It is.

25 Q. What are your responsibilities on that squad?

1 A. So, as an agent on that squad, we get leads and information
2 from our office in general and potentially other partners in
3 the U.S. intelligence agencies, and then we try to determine if
4 that information should be used to open an investigation, if it
5 rises to a certain threshold. And then we'll take that
6 information and open an investigation, which could mean
7 conducting interviews, serving legal process, surveillance, to
8 determine whether or not the veracity of the initial allegation
9 was true.

10 Q. One of the things I think you said your squad does is
11 investigate the disclosure of classified information, correct?

12 A. Correct.

13 Q. What is classified information?

14 A. So, classified information is U.S. government information
15 that could -- if compromised, would be deemed damaging to U.S.
16 national-security interests.

17 Q. Are there different levels of classified information?

18 A. There are.

19 Q. What are they?

20 A. So, they're classified at different levels because the
21 contents of the information could damage U.S. national-security
22 interests differently. So the three levels are confidential,
23 secret and top secret.

24 Confidential level, if disclosed, could cause damage to
25 U.S. interests. Secret could -- is the next level up, could

1 cause serious damage to the U.S. national-security interests.
2 And then top secret information, if compromised, disclosed in
3 an unauthorized manner, would cause exceptionally great damage
4 to the U.S.

5 Q. Generally, where is classified information stored?

6 A. On either physical space if it's a hard-copy document, or
7 on computer systems that are rated or accredited for the nature
8 of that classification.

9 Q. Let's start with the physical space. What type of physical
10 space stores classified information?

11 A. So, we can have secret-level information in FBI offices or
12 secure FBI space, so it can be there. And then we also have
13 what's called our SCIF, so it's a sensitive compartmented
14 information facility where we process top secret information as
15 well as information at lower levels that are deemed more
16 sensitive.

17 Q. And what about electronic classified information; where is
18 that stored generally?

19 A. Those are stored on internal information systems -- they're
20 networks of computers -- at the appropriate level.

21 Q. What do you mean at the appropriate level?

22 A. So, classified -- confidential information would be stored
23 at a system that's rated for that. Secret, on a secret system.
24 And a top secret information on a top-secret system. But the
25 higher class -- so everything under top secret could be

K24Wsch4

Deck - Direct

1 processed on a top-secret system whereas top secret processed
2 on a secret system would be a spill and in violation of our
3 security policy as well as being a U.S. government clearance
4 holder.

5 Q. I think you used the word "spill," is that correct?

6 A. Yes.

7 Q. What did you mean by spill?

8 A. It's, in the government, what we describe as a mishandling,
9 misuse of -- or storage of classified information. So it could
10 just be you taking classified documents out of a secured space.
11 It could be you accidentally putting top secret material on a
12 secret system. It could also be secret or classified
13 information existing outside of our systems that aren't
14 accredited to hold them.

15 Q. Generally, who is permitted to view classified information?

16 A. People who have a clearance at the appropriate level as
17 well as a need to know.

18 Q. Let's start with clearance. What type of clearance do you
19 need?

20 A. So, if you want to use secret information and you have a
21 need to know, you would need a secret-level clearance. And
22 then top secret, top secret.

23 Q. How do you get a security clearance?

24 A. It's a variety of methods, but based on your job
25 qualification, job description, you'll undergo -- for my

1 position, I need a top-secret SCI clearance, so I underwent a
2 background investigation, a polygraph, and then given where I
3 work, also a demonstrate a need to know to access that.

4 Q. Do you hold a security clearance?

5 A. I do.

6 Q. At what level?

7 A. Top-secret SCI.

8 Q. What does the SCI mean?

9 A. It's sensitive compartmented information, so it's a
10 controlled system within -- to further kind of contain more
11 sensitive information, whether it's at the secret or the
12 top-secret level.

13 Q. You also said "a need to know"; you used that phrase?

14 A. Correct.

15 Q. What do you mean by need to know?

16 A. Just because you have a security clearance at a certain
17 level doesn't mean you're just granted blanket access to all
18 information at that level, so it's just a way to further
19 restrict or kind of validate your ability to view the
20 information.

21 Q. I want to switch gears a bit.

22 Special Agent derrick, are you familiar with the terms
23 "Vault 7" and "Vault 8"?

24 A. I am.

25 Q. What do those terms refer to?

K24Wsch4

Deck - Direct

1 A. Those refer to a series of leaks put out during the year of
2 2017 by WikiLeaks on their website.

3 Q. Do you have an understanding of who the information that
4 was published by WikiLeaks belonged to?

5 A. Yes, from the CIA.

6 Q. To be clear, did WikiLeaks make public statements in
7 connection with those leaks?

8 A. They did.

9 Q. But did they actually disclose information with those
10 leaks?

11 A. They did.

12 Q. And how do you know that?

13 A. Because I visited the website and downloaded the
14 information.

15 Q. Approximately how many separate disclosures of CIA
16 classified information did WikiLeaks make on its website?

17 A. Approximately 26.

18 Q. Over what time period?

19 A. From around March 2017 to November of 2017.

20 Q. Did your squad, CD-6, participate in that investigation?

21 A. Yes, we did.

22 Q. What was the extent of your participation in the
23 investigation?

24 A. So, my role in the investigation was to visit the WikiLeaks
25 website and download the information which they had released

1 from the CIA to a computer so that we could document it for
2 evidentiary purposes.

3 Q. Let's talk about how you downloaded that information.

4 A. OK.

5 Q. You said that Vault 7 and Vault 8 releases were posted on
6 WikiLeaks's website, is that correct?

7 A. Correct.

8 Q. Generally, are FBI agents permitted to visit WikiLeaks's
9 website?

10 A. No.

11 Q. Why not?

12 A. Because it would be in violation of our security policy as
13 well as being a clearance holder, you're supposed to view
14 classified information, which the releases still were, still
15 are, on the correct system, which viewing it in the public
16 domain as a clearance holder would be in violation of that.

17 Q. Why is that a violation of your security policy?

18 A. FBI policy, because you need to view classified information
19 on a classified system and/or in a secure space.

20 Q. Did you get permission to go to WikiLeaks's website as part
21 of this investigation?

22 A. I did.

23 Q. How did you get that permission?

24 A. So, there was a conversation between my squad, my
25 supervisor, our security office and the attorney's office to

1 come up with a best method for the investigation to download
2 this information.

3 Q. Why did you talk to your security office?

4 A. Any time you're up against a security policy or need for an
5 investigative measure to kind of find a best practice for a way
6 to obtain information, you need to consult them.

7 Q. And based on those discussions, was a plan put in place to
8 download the Vault 7 and Vault 8 leaks?

9 A. It was.

10 Q. What were some of the parts of that plan?

11 A. So, one of the parts would be to obtain a separate computer
12 that wasn't connected, that wasn't a previous government
13 computer or connected to our network.

14 Another component was to just use public wi-fi and not a
15 government-attributable internet connection. And the third
16 part would be to find the best way to store this unique piece
17 of evidence in the best way possible.

18 Q. Let's talk about each of those steps. I think you said
19 that you got a nongovernment computer, is that correct?

20 A. Correct.

21 Q. Why is that?

22 A. Just so that when we entered it into evidence, we wouldn't
23 be taking something from the network and essentially putting it
24 aside indefinitely. And then also, we did not want to download
25 information from the internet, which could potentially contain

K24Wsch4

Deck - Direct

1 viruses or malware, to an FBI system.

2 Q. Do you have an understanding of what was contained within
3 the disclosures made by WikiLeaks?

4 A. I do.

5 Q. And what is that information?

6 A. They were information about CIA hacking tools and
7 cyber-exploitation tools.

8 Q. What, if any, impact did that have on your decision to use
9 a nongovernment computer?

10 A. Anytime you download something from the internet, you take
11 a risk. And then given what type of information we were going
12 to acquire, we wanted to take an extra -- many extra steps of
13 security to maintain the integrity of our systems as well as be
14 able to get the information and then store it properly.

15 Q. I think the second part of the plan was using public space
16 to download the leak. Is that correct?

17 A. Correct.

18 Q. Why didn't you download the leak from an FBI facility?

19 A. So, anytime actions on the internet are traceable as well
20 as downloads, and we didn't want to use an FBI system. And
21 given the type of information we were going to acquire, we
22 didn't want to use an FBI system to download the information
23 which could then be traced back to us and potentially implicate
24 the IP address and potentially other investigations.

25 Q. And why would that be problematic for the FBI?

1 A. Because it would reveal a source's methods and potentially
2 negatively impact our ability to properly investigate things.

3 Q. Did you identify a public location where you downloaded the
4 leak?

5 A. I did.

6 Q. And what location did you identify?

7 A. Starbucks.

8 Q. Why did you identify Starbucks?

9 A. Ease of use, quick wi-fi and reliability given the nature
10 of what we were doing.

11 Q. And I think the third aspect of the plan, you said, was
12 storing the computer in a certain location. Is that correct?

13 A. Correct.

14 Q. Can you describe that part of the plan?

15 A. So, we determined the best place would be the safe in my
16 supervisor's office, which is inside our SCIF, which is where
17 you would normally store top secret information. Our evidence
18 locker, where we -- you know, you acquire anything related to
19 investigations, drugs, money, we store there. But it's only
20 credited to the secret level, and this had some top secret and
21 SCI information in it, so we needed to find a solution to be
22 able to store it in the best manner possible.

23 Q. When did you first go to Starbucks to download the leak?

24 A. In March of 2018.

25 Q. And how did you download the leak once you were there?

1 A. I went to the -- used an internet browser, went to the
2 WikiLeaks website first. Didn't really see a quick way to
3 download all the -- the large volume of information, so
4 WikiLeaks had also provided a torrent website, which is
5 essentially just -- it was about 15 hyperlinks that connected
6 to zip files to download the bulk of the information that they
7 released.

8 Q. What is a torrent website?

9 A. It's a -- it looked -- just a blank website, but it had 15
10 hyperlinks, and each time you clicked on one of the links, it
11 asked if you wanted to save the associated zip file. And then
12 I saw there were 15 of those, and then I just downloaded it
13 that way.

14 Q. And what is a zip file?

15 A. Zip file is just a way to compress information. So if you
16 want to send a ton of files over an email or kind of website to
17 website, you can use software to compress that information in a
18 more easily storable format.

19 Q. Why did you go to the torrent instead of downloading it
20 directly from the website?

21 A. I did -- I tried -- I perused the website for a little and
22 didn't see -- given the volume of the information, there
23 wasn't, to my appearance, a good way to capture all of it. And
24 I knew of this -- from our investigation I knew of this torrent
25 address, which had been provided by WikiLeaks too, if you

K24Wsch4

Deck - Direct

- 1 wanted to essentially bulk download all the information.
- 2 Q. Did you download those zip files to the computer?
- 3 A. I did.
- 4 Q. And were you able to unzip those zip files?
- 5 A. I was.
- 6 Q. Were you able to download any of WikiLeaks's public
- 7 statements on that computer?
- 8 A. I was.
- 9 Q. And how did you do that?
- 10 A. Via screenshots.
- 11 Q. And you said you downloaded the zip files to the computer?
- 12 A. Correct.
- 13 Q. How long did that downloading process take?
- 14 A. Around an hour.
- 15 Q. And approximately how much data was found on those zip
- 16 files?
- 17 A. Approximately 1.4 gigabytes.
- 18 Q. After you downloaded the information on the computer that
- 19 day, did the classification level of that computer change?
- 20 A. It did.
- 21 Q. How did it change?
- 22 A. So, the computer -- we had just obtained it from a store,
- 23 and it was just any other computer you would buy. But as soon
- 24 as you store classification -- classified material on a device
- 25 like that, it immediately assumes the highest classification of

1 the material contained within it.

2 Q. Did there come a time when you went back to Starbucks to
3 download additional materials?

4 A. I did.

5 Q. Approximately when did that happen?

6 A. In May of 2018.

7 Q. And why did you go back to download additional materials?

8 A. Through the investigation, we determined that the zip files
9 which I had downloaded contained Vault 7, but it did not
10 contain the Vault 8 release, and we wanted to capture the
11 entirety of what WikiLeaks had put out there from March 2017 to
12 November of 2017.

13 Q. Were you able to download Vault 8 when you went back?

14 A. I was.

15 Q. How did you do that?

16 A. So, it was a lot less information. I was able to just go
17 to the release that WikiLeaks specified as Vault 8 and download
18 the singular files in that way. It's just -- it's a kind of
19 like right click, save as.

20 Q. And did you download the Vault 8 leak on the same computer
21 that you downloaded the Vault 7 leaks?

22 A. I did.

23 Q. Did there come a time when you confirmed that you had
24 downloaded all of the Vault 7 and Vault 8 leaks onto that
25 computer?

K24Wsch4

Deck - Direct

1 A. I did.

2 Q. How did you do that?

3 A. So, I matched -- the first release on March 7 is a long web
4 page of about a few thousand embedded hyperlinks, so I went to
5 WikiLeaks's website. I scrolled through that to see if what I
6 had downloaded appeared to be the same. And it did. And then
7 all of the subsequent leaks were essential -- like a one- to
8 two-page summary of what WikiLeaks was going to release in
9 addition to the provided original documents from the CIA. So I
10 clicked through on WikiLeaks's website each of their press
11 releases, made sure I had those, and then also made sure that
12 in the downloads I had appeared each of the documents which
13 WikiLeaks had embedded.

14 MR. LAROCHE: Your Honor, may I approach?

15 THE COURT: Yes.

16 BY MR. LAROCHE:

17 Q. Special Agent Deck, one of the things I've handed you is
18 marked Government Exhibit 1. Do you recognize that?

19 A. I do.

20 Q. And what is it?

21 A. That's the computer I used to download the Vault 7 and
22 Vault 8 releases.

23 Q. And how do you know it's that computer?

24 A. I purchased it. I used it, and it had been stored in our
25 space.

1 MR. LAROCHE: Your Honor, the government offers
2 Government Exhibit 1 into evidence.

3 MR. BRANDEN: No objection, Judge.

4 THE COURT: No. 1 will be received in evidence.

5 MR. LAROCHE: Thank you, your Honor.

6 (Government Exhibit 1 received in evidence)

7 BY MR. LAROCHE:

8 Q. Special Agent Deck, can you just hold that up for the jury
9 to see.

10 Special Agent Deck, I've also handed you a binder that
11 contains Government Exhibits 2 through 16. Do you recognize
12 that?

13 A. I do.

14 Q. And have you reviewed this binder?

15 A. I have.

16 Q. And how do you know you've reviewed it?

17 A. Excuse -- sorry. Sorry.

18 Q. How do you know you've reviewed it?

19 A. Oh. Because I've reviewed the binder and also on the
20 material that I downloaded.

21 Q. And what is contained in Government Exhibits 2 through 16?

22 A. Information related to the Vault 7 release.

23 Q. And is that contained within Government Exhibit 1?

24 A. It is.

25 MR. LAROCHE: Your Honor, the government would offer

1 Government Exhibits 2 through 16 into evidence.

2 MR. BRANDEN: No objection, Judge.

3 THE COURT: They're received in evidence, 2 through
4 16.

5 MR. LAROCHE: Thank you, your Honor.

6 (Government Exhibits 2-16 received in evidence)

7 MR. LAROCHE: You can put that to the side for a
8 second.

9 Ms. Hurst, can you please publish to the parties, the
10 jury and the Court what is marked as Government Exhibit 2.

11 Q. Special Agent Deck, do you recognize Government Exhibit 2
12 on your screen?

13 A. I do.

14 Q. What is this showing?

15 A. This is a screenshot from the release on March 7. It's
16 showing part of the Confluence software which was used, and
17 it's kind of a joint project, collaboration software. So it
18 would appear -- this release was a very long web page with a
19 lot of links taking -- that would go to their associated
20 address. And this is just a snippet of that.

21 Q. And you said March 7. March 7 of what year?

22 A. 2017.

23 Q. And was this the first leak posted by WikiLeaks?

24 A. It was.

25 Q. And you said that there was a long list on this page, is

K24Wsch4

Deck - Direct

1 that correct?

2 A. Correct.

3 Q. Where would that list appear if you were on the website?

4 A. If you would just keep scrolling.

5 Q. Scrolling in which direct?

6 A. Down.

7 Q. And where would that list appear?

8 A. Under directory departments, branches and groups.

9 Q. And could you click on parts of the list?

10 A. You could.

11 Q. What would happen if you clicked on parts of the list?

12 A. It would take you to whatever associated page that was.

13 Q. And did you download the information by clicking on those
14 parts?

15 A. I did not.

16 Q. Why not?

17 A. It was too cumbersome and time-consuming, especially when
18 we had the torrent address provided, which had been provided by
19 WikiLeaks's Twitter, verified Twitter account.

20 Q. And you said cumbersome. Approximately how many links were
21 on this first March 7 leak?

22 A. Over a few thousand.

23 MR. LAROCHE: Ms. Hurst, can you publish Government
24 Exhibit 3.

25 Q. Special Agent Deck, do you recognize Government Exhibit 3?

1 A. I do.

2 Q. What is this showing?

3 A. This is a continuation of the release on March 7 and the
4 Confluence page. So just imagine you keep scrolling down like
5 a WikiLeaks -- or a Wikipedia page or any sort of very
6 hyperlinked, content-heavy web page, and this is what that
7 represents.

8 Q. Did each of the lines on this page link to something else?

9 A. They do.

10 Q. What would happen if you clicked on one of these links?

11 A. It would take you to whatever associated web page was
12 embedded there.

13 Q. And again, this is from the March 7 leak, is that correct?

14 A. Correct.

15 MR. LAROCHE: Ms. Hurst, can you please publish
16 Government Exhibit 6.

17 Q. And again, what is this showing?

18 A. Continuation of the March 7 release, and what you would see
19 is in the Confluence software if you're on there for joint
20 project collaboration.

21 MR. LAROCHE: Ms. Hurst, can you please publish
22 Government Exhibit 6-1.

23 Q. What is this exhibit showing?

24 A. So, this is a screenshot of -- continuing from Confluence
25 of the transferring data using NTFS viewed previously -- on the

1 previous exhibit if you had clicked on that hyperlink.

2 MR. LAROCHE: Ms. Hurst, if you can, could we please
3 put Government Exhibits 6 and 6-1 next to each other.

4 Q. I'm sorry. You said that if you clicked on one side of the
5 left link, it would bring you to the right, is that correct?

6 A. Correct. If you -- the third-from-the-top link, if you had
7 clicked on that, it would have taken you, depending how you had
8 it set up, either a new tab or the same web page, but it would
9 have the information which it described.

10 MR. LAROCHE: Let's zoom in on that. If we can go to
11 Government Exhibit 6 again and then zoom in on the third line
12 down, please.

13 Q. Is that the link you're referring to?

14 A. Correct.

15 MR. LAROCHE: Now we can go back to Government Exhibit
16 6-1. Let's first focus on, please zoom in on the line that
17 starts "transferring data."

18 Q. And that's tied to the link from the previous page, is that
19 correct?

20 A. Correct.

21 MR. LAROCHE: If you can zoom out again, please.

22 Q. Special Agent Deck, I want to focus you on the banner in
23 the middle that says secret/noforn.

24 MR. LAROCHE: If we could zoom in on that, please.

25 Q. Do you recognize that banner?

1 A. I do.

2 Q. And what is it?

3 A. It's a classification banner at the secret level, and it
4 has -- the nofor is a dissemination caveat. Essentially --
5 there's a lot of those, but this one means that it is for U.S.
6 government personnel only, not to be disseminated outside the
7 government.

8 Q. Did you put the banner on this page?

9 A. I did not.

10 Q. Was this banner present when you downloaded it from
11 WikiLeaks?

12 A. It was.

13 MR. LAROCHE: Ms. Hurst, you can take that exhibit
14 down.

15 Q. Special Agent Deck, we talked about three exhibits from the
16 leak, I believe, Government Exhibits 2, 3 and 6. Is that
17 correct?

18 A. Uh-huh.

19 Q. And all of those came from the March 7 leak, right?

20 A. Correct.

21 Q. And that was the first disclosure made by WikiLeaks?

22 A. That's correct.

23 Q. How, if at all, were the subsequent disclosures by
24 WikiLeaks different?

25 A. So, I described that release as just a very long web page

1 of a kind of collaboration site, similar to how -- ton of links
2 to, like, a Wikipedia page. All the other releases were a one-
3 to two-page summary by WikiLeaks of what they were going to
4 release. And then next to the article -- next to their
5 summary, they would have all of the original CIA documents.

6 MR. LAROCHE: Ms. Hurst, can you please publish
7 Government Exhibit 13.

8 Q. Special Agent Deck, do you recognize this?

9 A. I do.

10 Q. And what is this?

11 A. This is a, the Brutal Kangaroo user guide.

12 Q. What leak was this from?

13 A. This was on or about June 22, 2017.

14 MR. LAROCHE: Let's start at the top of the page, if
15 we could zoom in on the secret/noforn.

16 Q. What is that?

17 A. That's the banner classification identifying this document
18 at the secret/noforn level.

19 Q. And again, did you put the banner on this document?

20 A. I did not.

21 Q. Was this banner on the document when you downloaded it?

22 A. It was.

23 MR. LAROCHE: If you could zoom out again, please, and
24 then zoom in on the three lines starting "Brutal Kangaroo
25 program."

K24Wsch4

Deck - Direct

1 Q. Are you familiar with these terms?

2 A. I am.

3 Q. How are you familiar with them?

4 A. From my knowledge on the investigation, I know that Brutal
5 Kangaroo was a cyber tool developed and used by the CIA.

6 MR. LAROCHE: Put up page 4 of the PDF, please,
7 Ms. Hurst, and if we could just zoom in from the top down to
8 the paragraph that has an S, "the Brutal Kangaroo project
9 consists of."

10 Perfect. Thank you.

11 Q. First, let's just start with, there's a 1 and then U in
12 parentheses and scope. What does that U in parentheses mean?

13 A. That means unclassified.

14 Q. Are you familiar with those markings on classified
15 documents?

16 A. I am.

17 Q. Just generally, what do they designate?

18 A. So, if the overall classification of the document, which,
19 as you saw, was the banner line at the top and the bottom,
20 classifies it as secret or top secret, then even though -- if
21 there is unclassified information in the document, you must
22 delineate it as unclassified. Or you must portion mark all
23 information regardless of what it's classified at.

24 Q. There's a 1.1 that reads, "System overview and description
25 of Brutal Kangaroo tool suite." Can you read the paragraph

1 below that?

2 A. "Brutal Kangaroo is a tool suite for targeting closed
3 networks by air gap jumping using thumb drives. Brutal
4 Kangaroo components create a custom covert network within the
5 target closed network and provide a functionality for executing
6 surveys, directory listings and arbitrary executables."

7 MR. LAROCHE: Thank you. No further questions.

8 THE COURT: Mr. Branden.

9 CROSS-EXAMINATION

10 BY MR. BRANDEN:

11 Q. Special Agent Deck, I'm Jim Branden. I'm a defense
12 attorney for Mr. Schulte. I just have a few questions for you.

13 A. OK.

14 Q. First of all, in March and May of 2018, on two specific
15 dates, you were tasked with essentially downloading Vaults 7
16 and 8 from the WikiLeaks website, correct?

17 A. Correct.

18 Q. And then as a result of downloading those Vault 7 and Vault
19 8, you were able to produce to the government exhibits 1 and
20 then 2 through 16 which were introduced here today, correct?

21 A. Correct.

22 Q. OK. And exhibit 1 is the computer that you bought and then
23 used at Starbucks, correct?

24 A. Correct.

25 Q. OK. Nothing in the exhibits that were introduced on direct

1 through you would show how that information, the Vaults 7 and 8
2 information, was originally provided to WikiLeaks, is that
3 correct?

4 A. Correct.

5 Q. Is it also true that nothing in those exhibits would show
6 when that information was provided to WikiLeaks?

7 A. Not -- not to my knowledge.

8 Q. And finally, nothing in those exhibits or through your
9 investigation would specifically show who provided the Vault 7
10 and Vault 8 information to WikiLeaks?

11 A. Yeah. Not to my knowledge.

12 MR. BRANDEN: That's all I have, Judge. Thank you
13 very much.

14 THE COURT: All right.

15 MR. LAROCHE: Nothing further for this witness, your
16 Honor.

17 THE COURT: You're excused. Thank you very much.

18 THE WITNESS: Thank you, your Honor.

19 (Witness excused)

20 THE COURT: Call your next witness.

21 MR. LAROCHE: Your Honor, may we approach?

22 THE COURT: Yes.

23 (Continued on next page)

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K24Wsch4

1 (At sidebar)

2 THE COURT: You're going to tell me that it's a
3 classified witness and you don't want to start at quarter to
4 three.

5 MR. LAROCHE: It's not that we don't want to start.
6 It just takes some time to get him up here. The problem is
7 with the marshals, it takes some time to get up here.

8 MS. SHROFF: Your Honor, may I just ask why it's
9 necessary for the marshal to escort him to his seat? It
10 doesn't seem needed.

11 THE COURT: Access to the elevator is through the
12 marshal's office.

13 MS. SHROFF: Yes, but the marshal doesn't have to walk
14 him into the courtroom.

15 MR. LAROCHE: They have to bring him up through that
16 access route, which I think takes some time.

17 MS. SHROFF: No, I don't care when you start. I just
18 don't want the marshal, or whoever it is, walking him in.

19 THE COURT: They're going to walk through the door.
20 The marshals aren't going to escort him through the courtroom.

21 MR. LAROCHE: No.

22 THE COURT: He's going to open the door for him.

23 MR. LAROCHE: Yes.

24 MS. SHROFF: This door, the marshal's door? This one?

25 MR. LAROCHE: We can confirm that, but that's our

K24Wsch4

1 understanding. I don't think he's going to walk him to the
2 chair.

3 THE COURT: Why would he walk him to the chair?

4 MR. LAROCHE: I don't think so.

5 MS. SHROFF: So we're going to start him tomorrow?

6 MR. LAROCHE: I think it makes sense. By the time he
7 gets up here, it's going to be three.

8 THE COURT: Listen, you have to do a better job of
9 getting your witnesses up here. We're not going to waste 15
10 minutes every time you have a witness. You can stick him in
11 the witness room.

12 MS. SHROFF: You don't know who they are, right? It's
13 kind of hard to accost somebody when you don't know who they
14 are. Just saying.

15 MR. LAROCHE: Well, you never know.

16 Understood, Judge.

17 (Continued on next page)

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K24Wsch4

1 (In open court)

2 THE COURT: All right. The parties agreed to adjourn
3 for the day, so we're going to close. Normally we'd end at
4 3:00. We're going to end a little bit sooner.

5 You heard what I said. Don't do any research on the
6 case. Don't talk about the case. Keep an open mind.

7 We'll resume tomorrow morning at 9:00. Try to be on
8 time. We'll have breakfast and a little snack, a reward for
9 coming early. We'll get started at nine and we'll break at
10 3:00 for the day.

11 Thank you very much. Safe home tonight.

12 (Continued on next page)

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1 (Jury not present)

2 THE COURT: OK. Please be seated.

3 Anything you want to take up?

4 Mr. Laroche.

5 MR. LAROCHE: No, your Honor.

6 THE COURT: Ms. Shroff.

7 MS. SHROFF: No, your Honor.

8 THE COURT: All right. See you tomorrow morning at

9 9:00.

10 Will the first witness tomorrow have protective

11 measures coming in?

12 MR. LAROCHE: Yes, your Honor.

13 THE COURT: Limit the attendance of the courtroom.

14 MR. LAROCHE: Yes, your Honor.

15 THE COURT: And you'll take care of that?

16 MR. LAROCHE: Yes, your Honor.

17 THE COURT: How are you going to do that?

18 MR. LAROCHE: We'll consult with Mr. Gonzalez before

19 and make sure everybody's on the same page.

20 THE COURT: Consult with the marshal's office as well.

21 MR. LAROCHE: Yes, your Honor.

22 THE COURT: And be mindful of what I say.

23 MR. LAROCHE: Yes, your Honor.

24 THE COURT: Get the witnesses subject to protection up

25 here so that we don't have to wait 15 minutes for the elevator.

K24Wsch4

1 MR. LAROCHE: Yes, your Honor. Understood.

2 THE COURT: Thank you.

3 MR. LAROCHE: Yes, your Honor.

4 (Adjourned to February 5, 2020, at 9:00 a.m.)

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19

20

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22

23

24

25

INDEX OF EXAMINATION

Examination of: Page

PAUL ROSENZWEIG

Direct By Mr. Denton37

Cross By Ms. Shroff75

Redirect By Mr. Denton126

STEVEN DECK

Direct By Mr. Laroche130

Cross By Mr. Branden153

GOVERNMENT EXHIBITS

Exhibit No. Received

1145

2-16146

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25