

1 MJ [COL PARRISH]: You may call your next witness.

2 ATC [CAPT EASON]: The United States calls Dr. Michael Welner,
3 sir.

4 **DR. MICHAEL WELNER, civilian, was called as a witness for the**
5 **prosecution, was sworn, and testified as follows:**

6 **DIRECT EXAMINATION**

7 **Questions by the assistant trial counsel, Captain Eason:**

8 Q [CAPT EASON]. Dr. Welner, if you would please introduce
9 yourself to the jury.

10 A [DR. WELNER]. Good afternoon. My name is Dr. Michael Welner,
11 W-E-L-N-E-R.

12 Q [CAPT EASON]. And what is your occupation, sir?

13 A [DR. WELNER]. I am a psychiatrist and forensic psychiatrist.

14 Q [CAPT EASON]. What were you requested to do in this case, for
15 this hearing?

16 A [DR. WELNER]. I was asked to look at a number of psychiatric
17 legal questions that related to different stages of the case, at
18 different times.

19 Q [CAPT EASON]. Specifically for this hearing, in this case?

20 A [DR. WELNER]. For this hearing I have been asked to offer a
21 professional assessment and an opinion on Omar Khadr's risk of
22 dangerousness as a violent jihadist.

23 Q [CAPT EASON]. Dr. Welner, where did you go to medical school?

1 A [DR. WELNER]. University of Miami.

2 Q [CAPT EASON]. Please tell us about your residencies there?

3 A [DR. WELNER]. I did an internship in internal medicine,
4 emergency medicine, and psychiatry, and then I graduated to a
5 residency in psychiatry at Bethel Ridge Medical Center in New York
6 and following that, I did a fellowship in forensic psychiatry at the
7 University of Pennsylvania.

8 Q [CAPT EASON]. Did you undertake a fellowship?

9 A [DR. WELNER]. I did.

10 Q [CAPT EASON]. Could you please tell us what a fellowship is
11 and where you experienced one?

12 A [DR. WELNER]. A fellowship is a post-graduate training beyond
13 residency. Medicine subspecializes in a way that it never has in the
14 past so while once there was a surgical specialty and psychiatry
15 specialty and medicine specialty, now people who train in medicine do
16 a medicine residency and then do cardiology as a subspecialty, and
17 then perhaps interventional cardiology, and so it is with psychiatry.
18 One does a residency and then one may additionally pursue
19 subspecialty training in child psychiatry or geriatric psychiatry,
20 and forensic psychiatry is a subspecialty as well and I did a
21 fellowship training in that.

22 Q [CAPT EASON]. Where did you practice after your fellowship?

23 A [DR. WELNER]. I began practice in New York City and assumed a

1 patient load for clinical and treatment care of approximately 70
2 patients and at the same time, a full-time position at Bellevue
3 Hospital in New York City as an attending physician on the correction
4 psychiatry unit.

5 Q [CAPT EASON]. Are you board certified?

6 A [DR. WELNER]. I am.

7 Q [CAPT EASON]. In what, sir?

8 A [DR. WELNER]. I'm board certified in psychiatry, forensic
9 psychiatry, psychopharmacology, and disaster medicine.

10 Q [CAPT EASON]. Could you please tell us what being board
11 certified entails?

12 A [DR. WELNER]. Board certified is the achievement of a
13 demonstrated higher proficiency in a specific area. It's a
14 demonstrated awareness of the state-of-the-art of a specific field in
15 completion of testing and experience in combination.

16 Q [CAPT EASON]. What is forensic psychiatry?

17 A [DR. WELNER]. Forensic psychiatry is the interface of
18 psychiatry and the law. It is the area where these two disciplines
19 intersect. There are criminal aspects of forensic psychiatry, such
20 as what we are going to see here; there are civil aspects, for
21 example personal injury questions and malpractice; there are
22 interfaces in family courts, custody issues, parental rights,
23 employment issues, fitness for duty, even in securities law,

1 competency to invest. So there are a range of areas in which
2 questions come up that require psychiatric understanding to inform
3 the court in a number of different kinds of legal settings.

4 Q [CAPT EASON]. What is the difference between forensic
5 psychiatry and clinical psychiatry? Can you break that down for us?

6 A [DR. WELNER]. Well, I have a clinical practice and I have a
7 forensic practice. In a clinical practice, if you were to come to me
8 with symptoms of depression and sleep and appetite problems, I would
9 take that you had to say at face value, because in a clinical
10 practice someone comes to you as an individual with symptoms and
11 wants to get well. So you operate under the presumption of trust.

12 The forensic setting, you are practicing within an
13 adversarial system so people may come to you with exactly the same
14 complaint, sleep, appetite, and other symptoms of depression. But
15 because one is operating in an adversarial system, you, as a
16 litigant, might present something with an eye toward how to advance
17 your case, so it is incumbent upon me as a practitioner to proceed
18 with the presumption of caution. One is the presumption of trust,
19 one is the presumption of caution in order to draw other kinds of
20 information to verify and corroborate or not.

21 Q [CAPT EASON]. You mentioned this earlier, what is
22 psychopharmacology?

23 A [DR. WELNER]. Psychopharmacology is the discipline of

1 psychiatry that focuses on treatment with medication and other
2 physical interventions.

3 Q [CAPT EASON]. What about disaster medicine?

4 A [DR. WELNER]. Disaster medicine is an emerging medical
5 subspecialty that relates directly to the needs--the medical needs of
6 a community that is affected by disaster, including war.

7 Q [CAPT EASON]. Now specifically, what does being board
8 certified entail in forensic psychiatry, Doctor?

9 A [DR. WELNER]. Board certification in forensic psychiatry is
10 achieved through experience, as well as satisfactory or passing a
11 written exam in which your skills and proficiency of topics in
12 forensic psychiatry and practice of forensic psychiatry are tested.

13 Q [CAPT EASON]. Have you recertified in any of the specialties
14 that you mentioned?

15 A [DR. WELNER]. I have.

16 Q [CAPT EASON]. When, Doctor?

17 A [DR. WELNER]. I certified in forensic psychiatry in 1996 and
18 I recertified in 2006. It is a certification that lasts for 10
19 years, and that's because the field changes. You've got new things
20 that are being discovered all of the time. It changes what you have
21 to be aware of and in order to keep your knowledge current you
22 recertify. It is the same with psychopharmacology. In
23 psychopharmacology I recertified in 2007. As you might imagine with

1 medications and pharmaceutical and development, things are always
2 being developed that change patient care, so certification in
3 psychopharmacology actually is only as good as 5 years, so I
4 recertified in 2007 after an initial certification, I believe, in
5 2002.

6 Q [CAPT EASON]. Is it a requirement to recertify, Doctor?

7 A [DR. WELNER]. No, it is not. It's good for you. It keeps
8 you on your toes. It forces you to keep your knowledge current and
9 it's good for the field to make sure that your patients are getting
10 up-to-date care and that they get the state-of-the-art that they
11 deserve.

12 Q [CAPT EASON]. In the context of certification in forensic
13 psychiatry, Doctor, please tell us whether you are required to
14 understand the discipline of future dangerousness and risk
15 assessment?

16 A [DR. WELNER]. Yes, you are.

17 Q [CAPT EASON]. Okay. And how are these areas dealt with in
18 recertification and certification?

19 A [DR. WELNER]. The academic community, the scientific
20 community, has been giving increasing attention to risk assessment in
21 a variety of domains and there are articles and studies and things
22 that are coming out all of the time. The way to ensure that a
23 forensic psychiatrist or really any psychiatrist, because this is the

1 one discipline in which it's engaged and is aware of the emerging
2 research, is through board certification in which you are expected to
3 be aware of the literature and different aspects of risk assessment
4 and risk of dangerousness.

5 Q [CAPT EASON]. Does a typical clinical practice, I think you
6 mentioned one earlier, inform a risk of dangerousness assessment,
7 Doctor?

8 A [DR. WELNER]. No, it does not.

9 Q [CAPT EASON]. Please tell us why not?

10 A [DR. WELNER]. Well, in a clinical practice you are treating
11 symptoms. You are treating a condition. You give someone
12 psychotherapy, involve somebody in psychotherapy, involve someone in
13 axillaries treatments -- perhaps psychopharmacology; symptoms get
14 better, patient moves on. Risk assessment is something that is borne
15 out of corrections populations. There are different aspects of risk
16 assessment, but it is something that is not so much driven by a
17 patient as it is driven by a concerned community about the patient,
18 and sometimes it is a community at large and sometimes it's a smaller
19 community that has expressed some concern, like a workplace.

20 Q [CAPT EASON]. Does that apply to both clinical psychiatry and
21 clinical psychology equally?

22 A [DR. WELNER]. I'm sorry, the question is does what?

23 Q [CAPT EASON]. Well, is clinical psychiatry and clinical

1 psychology inadequate to future dangerousness assessment, Doctor?

2 A [DR. WELNER]. Yeah.

3 Q [CAPT EASON]. Okay.

4 A [DR. WELNER]. The skills that I use as a clinician are not
5 skills that I would be using in risk assessment.

6 Q [CAPT EASON]. Now, comparing forensic psychology to forensic
7 psychiatry, is the state of the science to approach the future danger
8 of this assessment the same?

9 A [DR. WELNER]. It is. We both rely upon the same body of
10 literature, the same research. There are psychology journals that
11 psychiatrists read. There are psychiatry journals that psychologists
12 read. So there's a good amount of cross-pollination in this area.

13 Q [CAPT EASON]. Let's talk about a different area, Doctor. Do
14 you hold any academic appointments?

15 A [DR. WELNER]. I do.

16 Q [CAPT EASON]. Are there any special considerations required
17 to secure and maintain these appointments that you hold?

18 A [DR. WELNER]. Well, I am Associate Professor of Psychiatry at
19 NYU School of Medicine and I am an Adjunct Professor of Law at
20 Duquesne University School of Law, Pittsburg, Pennsylvania, although
21 my clinical practice is based in New York and my forensic practice is
22 as well. In terms of NYU and Duquesne, each has separate
23 requirements, but NYU is a prestigious department with a number of

1 talented faculty and so one is expected to contribute in a variety of
2 ways to teaching in other academic activities in order to maintain a
3 voluntary appointment. At Duquesne University School of Law,
4 naturally you wouldn't expect a psychiatrist to be on a law school
5 faculty so there are contributions that are unique to Duquesne that I
6 am expected to make.

7 Q [CAPT EASON]. Now, let's be clear, you are not an attorney,
8 are you?

9 A [DR. WELNER]. No, sir, and I am not a law professor.

10 Q [CAPT EASON]. Okay. Are there any other psychiatrists or
11 psychologists at Duquesne that are adjunct professors?

12 A [DR. WELNER]. I'm not aware of them but you would expect that
13 a law school faculty would have attorneys and law professors, so it's
14 an unusual situation.

15 Q [CAPT EASON]. What is your primary professional position,
16 Doctor?

17 A [DR. WELNER]. Private practice and chairman of the forensic
18 panel.

19 Q [CAPT EASON]. Does your practice include the treatment of
20 patients?

21 A [DR. WELNER]. It does.

22 Q [CAPT EASON]. And when did you begin your private practice?

23 A [DR. WELNER]. 1992.

1 Q [CAPT EASON]. And what has been your focus, please tell us,
2 in private practice?

3 A [DR. WELNER]. Well, my focus started as a
4 psychopharmacologist and I had mentioned earlier the board
5 certification, and I began my earlier years with a focus on the
6 treatment of violence, the assessment and treatment of violence,
7 because there are many things that precede violence. Violence
8 expresses itself in a variety of different ways and with triggers;
9 sometimes they are social, sometimes they are biological and
10 chemical, and the aftermath and what a person learns in order to
11 decrease recidivism. So that is a clinical issue but that was an
12 area that was my earliest or I should say early treatment focus. I
13 graduated from that to focus more on general psychiatric conditions,
14 and in more recent years, the patients that I treat as a
15 psychopharmacologist are patients who are referred to me from other
16 psychiatrists because they have not responded to treatment, they
17 haven't gotten well, and they are more challenging cases.

18 Q [CAPT EASON]. Do you have experience interviewing individuals
19 that are under the age of 18?

20 A [DR. WELNER]. I do.

21 Q [CAPT EASON]. Do you have experience interviewing adults who
22 committed acts when they were under the age of 18?

23 A [DR. WELNER]. Yes, sir, extensive.

1 Q [CAPT EASON]. Please tell us roughly how many cases, Doctor,
2 that you have been asked to consult on prior to your experience in
3 this case?

4 A [DR. WELNER]. I've consulted on several hundred psychiatric
5 legal cases prior to my work on this case; probably somewhere, you
6 know, in the neighborhood of 500 cases.

7 Q [CAPT EASON]. Do you have any special distinctions as a
8 psychiatrist in any court?

9 A [DR. WELNER]. I am on a panel of highly qualified independent
10 psychiatrists that is maintained by the Supreme Court of the State of
11 New York.

12 Q [CAPT EASON]. Could you please tell us what that is, Doctor?

13 A [DR. WELNER]. The panel of highly qualified independent
14 psychiatrists is a panel that is maintained by the courts in New York
15 State so the judges can make appointments on a number of different
16 issues rather than one side or another, a judge appoints a member of
17 that panel, a psychiatrist on that panel, to conduct an examination
18 and to either prepare findings or perhaps even to appear in court, as
19 I am today.

20 Q [CAPT EASON]. Have you also been recognized by being asked to
21 consult on highly sensitive cases by throughout the U.S.?

22 A [DR. WELNER]. I have.

23 Q [CAPT EASON]. Approximately how many states?

1 A [DR. WELNER]. I have consulted in somewhere over 30 states at
2 this point.

3 Q [CAPT EASON]. What about in the world, Doctor, countries?

4 A [DR. WELNER]. I have consulted in four countries that I can
5 think of immediately: the United States of course; I guess Cuba
6 doesn't count; the United States; Canada; Hong Kong; and Singapore.

7 Q [CAPT EASON]. How about military trials, Doctor, military
8 courts-martial?

9 A [DR. WELNER]. I have.

10 Q [CAPT EASON]. How many?

11 A [DR. WELNER]. About five.

12 Q [CAPT EASON]. Now specifically, have you consulted in cases
13 involving accused members of Al Qaeda other than this one?

14 A [DR. WELNER]. I have.

15 Q [CAPT EASON]. How many?

16 A [DR. WELNER]. Two others.

17 Q [CAPT EASON]. Which two, Doc?

18 A [DR. WELNER]. A civil case relating to Mamdouh Salim and the
19 on-going criminal case of Ahmed Ghalani.

20 Q [CAPT EASON]. In addition to consulting on cases, have you
21 also testified as expert witnesses in cases?

22 A [DR. WELNER]. I have.

23 Q [CAPT EASON]. How many, Doctor, roughly?

1 A [DR. WELNER]. How many times have I testified?

2 Q [CAPT EASON]. Yes, sir.

3 A [DR. WELNER]. Probably somewhere close to a hundred. I would
4 say that I testify probably somewhere between two and four times a
5 year.

6 Q [CAPT EASON]. Let's come back to the New York list you are
7 on, the New York State Court. As part of this court appointed panel
8 you are on, you just discussed, have you/do you evaluate prisoners
9 who are being considered for release?

10 A [DR. WELNER]. I do.

11 Q [CAPT EASON]. For what factors?

12 A [DR. WELNER]. Well, there are a number of questions that the
13 panel might bring to my attention: One, risk for future violence;
14 risk for future sex offense; risk for criminal recidivism; likelihood
15 of responsiveness to a treatment that might be recommended; and what
16 are known as order of conditions, in other words, working with the
17 court to establish a series of conditions that could be put into
18 place in order to diminish risk or in order to enhance someone's
19 treatment going forward.

20 Q [CAPT EASON]. Have you also conducted risk of dangerous
21 assessments for prosecutors, defense counsel, and judges?

22 A [DR. WELNER]. I have.

23 Q [CAPT EASON]. Approximately how many times, Doctor?

1 A [DR. WELNER]. Probably about 20 times, maybe a few more.

2 Q [CAPT EASON]. Have you ever opined some people as "no risk
3 for future dangerousness?"

4 A [DR. WELNER]. I have.

5 Q [CAPT EASON]. And specifically, have you ever evaluated
6 someone at the request of the prosecutors and deemed that person not
7 to be dangerous?

8 A [DR. WELNER]. I have.

9 Q [CAPT EASON]. All right. Doctor, let's talk about the
10 publication you founded. Could you please tell us about that, tell
11 us its focus, and tell us your role therein?

12 A [DR. WELNER]. Okay. In 1996, I founded a magazine called
13 "*The Forensic Echo*" which covered the interface of cutting edge
14 psychiatry, the law, and public policy. What we would do is we would
15 review over 150 scientific journals to pull out articles that we
16 envisioned would be very instructive to attorneys or to judges who
17 really wanted to stay abreast of science that mattered to their
18 cases; for example, something about panic disorder and how it might
19 relate to AIDS phobia at a time when AIDS phobia cases were coming
20 into courts, and yet the court might not necessarily have access to
21 certain scientific studies that informed them of anxieties and
22 emotional conditions relating to that illness.

23 At the same time, we also covered appellate court decisions

1 from around the United States and breaking and evolving scientific
2 rulings that would affect practitioners, that practitioners would
3 want to know about because courts stay with the court, stay with law
4 reviews, are informed about decisions, but don't really know what's
5 happening in the scientific community and members of the mental
6 health professions and forensic sciences also are aware of what's in
7 their journals but don't necessarily recognize trends and the
8 emerging issues in the courts that might have a very significant
9 impact what they should be aware of and what they should be looking
10 for in their own practice. So, we focused on that and published for
11 5 years.

12 Q [CAPT EASON]. Tell us about your subscriber base?

13 A [DR. WELNER]. Primarily it was criminal defense attorneys and
14 forensic psychologists.

15 Q [CAPT EASON]. Did you contribute articles to this
16 publication?

17 A [DR. WELNER]. Certainly, I was the editor and chief and so I
18 worked very hard on it.

19 Q [CAPT EASON]. How many articles roughly would you say,
20 Doctor?

21 A [DR. WELNER]. I would say that over the course of 5 years, I
22 contributed over 150 articles to *The Forensic Echo*.

23 Q [CAPT EASON]. Did you publish articles regarding on-going

1 progress in science relating to risk assessment of future
2 dangerousness?

3 A [DR. WELNER]. Yes.

4 Q [CAPT EASON]. Please----

5 A [DR. WELNER]. The area of risk assessment of future
6 dangerousness has been emerging, evolving, and really attracting a
7 lot of research and study particularly over the last, oh let's say,
8 about 30 years and actually inspired by court decisions and the kinds
9 of things that courts are paying pretty significant attention to. So
10 our readers were interested in it and we covered it closely.

11 Q [CAPT EASON]. Have you also lectured to professional groups
12 as part of your experience as a forensic psychiatrist?

13 A [DR. WELNER]. I have and I do.

14 Q [CAPT EASON]. Please give us some examples, Doctor?

15 A [DR. WELNER]. I have lectured at the invitation of: the
16 American Academy of Psychiatry and the Law; the International Academy
17 of Forensic Sciences; the American Academy of Forensic Sciences; the
18 American Bar Association; the International Bar Association; and Yale
19 University School of Law. So I have lectured primarily before
20 forensic science community meetings and gatherings, and every so
21 often before law and law functions.

22 Q [CAPT EASON]. Well have you also consulted with and testified
23 before legislatures?

1 A [DR. WELNER]. I have.

2 Q [CAPT EASON]. On topics of psychiatry and the law?

3 A [DR. WELNER]. I have.

4 Q [CAPT EASON]. Could you please give us some examples, sir?

5 A [DR. WELNER]. I testified before the Texas and Pennsylvania
6 State Senate Judiciary's on legislation defining mental retardation
7 and how it would relate to capital litigation and I testified before
8 the New Jersey -- not New Jersey -- New York Legislature on videogame
9 violence and its affects.

10 Q [CAPT EASON]. Have you received any major awards in the area
11 of psychiatry?

12 A [DR. WELNER]. I have.

13 Q [CAPT EASON]. Okay.

14 A [DR. WELNER]. From the American Psychiatric Association,
15 Excellence in Medical Student Education.

16 Q [CAPT EASON]. What other major distinctions, sir, have you
17 achieved?

18 A [DR. WELNER]. The one that comes to mind is that I am one of
19 a couple of psychiatrists in the United States that was asked by the
20 FBI to join them to formulate a comprehensive reworking of FBI policy
21 about how they investigate and probe and deal with serial killers in
22 the United States.

23 Q [CAPT EASON]. If you could, please give us an approximate

1 breakdown of your professional time?

2 A [DR. WELNER]. Now I would say that 40 percent of my time is
3 spent on actual casework; 25 percent of my time is spent supervising
4 the casework of others who are part of my practice and forensic
5 panel; 10 percent of my time is spent writing; 10 percent of my time
6 is spent on research; 10 percent of my time is spent on treating
7 patients in a patient treatment capacity; and 5 percent of my time is
8 spent teaching.

9 Q [CAPT EASON]. Have you also conducted original research?

10 A [DR. WELNER]. I have.

11 Q [CAPT EASON]. What areas, Doctor, have you researched?

12 A [DR. WELNER]. My longest and most on-going research has been
13 in a multi-stage effort to devise a standard for distinguishing the
14 worst of crimes and it is called the "Depravity Standard." I have
15 also researched and developed a typology for something called "Drug
16 Facilitated Sex Assault," that is with Rohypnol and GHB and that sort
17 of thing, as well as "Disputed Confessions" and most recently
18 "Polygamist Cult Sect Leaders."

19 Q [CAPT EASON]. And why did you get up that research in the
20 latter topic, sir?

21 A [DR. WELNER]. I am involved in a case now in Utah involving
22 the kidnapping of a young teenage girl named Elizabeth Smart who was
23 taken for 9 months by a man and his wife. In the course of following

1 that case it required a very unexpected but necessary introduction
2 into the world of fundamentalist LDS, which was something completely
3 apart from the Mormon faith or anything that I knew about the Mormon
4 faith and what I came to learn, and even that the Mormons knew about
5 the Mormon faith. And what I also came to appreciate was that very
6 little was known about this phenomenon of polygamist sect leaders,
7 and there are polygamist sects and their mysteries but also the
8 leaders of these polygamist sects are very intriguing people. It
9 ultimately was somewhat relevant to the evolution of my opinion in
10 that case and so I followed it through because there was a lot to
11 learn and in the course of it, I have learned quite a bit.

12 Q [CAPT EASON]. What is a *Crime Classification Manual*, Doctor?

13 A [DR. WELNER]. *Crime Classification Manual* is a reference
14 prepared or I should say it's a reference that was developed by the
15 FBI in order to subtype different crimes, violent, non-violent, to
16 use as a reference guide by social workers, by mental health
17 professionals, by law enforcement professionals, by legal
18 professionals to enable a differentiation, a distinction, of
19 different subtypes of crime.

20 Q [CAPT EASON]. And what, if anything, were you asked to review
21 for the *Crime Classifications Manual*?

22 A [DR. WELNER]. Referencing the depravity standard research, I
23 was asked to and did contribute the chapter on "Classifying Crimes by

1 Severity."

2 Q [CAPT EASON]. Have you also been asked to testify on your
3 research?

4 A [DR. WELNER]. I have.

5 Q [CAPT EASON]. Okay. Have you declined?

6 A [DR. WELNER]. I have declined every time.

7 Q [CAPT EASON]. Could you please tell us why?

8 A [DR. WELNER]. The research is not ready for applicability in
9 courts. It's a delicate undertaking. The amount of data and the
10 amount of understandings that we've gathered are tremendous but I
11 will feel much more comfortable once the research is refined to a bit
12 more degree before introducing it into courts. I want to be careful
13 with the sensitivity of it because I appreciate its significance.

14 Q [CAPT EASON]. Well, Doctor, then the question to you is this,
15 how is your research experience relevant to this case here?

16 A [DR. WELNER]. I am familiar with devising methods for
17 approaching problems and understanding what you need to draw in to
18 form an opinion and the limits of what you can say based on the
19 information that you have.

20 Q [CAPT EASON]. What is the forensic panel?

21 A [DR. WELNER]. The forensic panel is the first peer reviewed
22 forensic consultation practice in the United States, and when I
23 reference peer review, I speak about the idea of oversight by

1 colleagues to a forensic scientist work.

2 Q [CAPT EASON]. What is your role at the forensic panel, sir?

3 A [DR. WELNER]. I am chairman of the forensic panel.

4 Q [CAPT EASON]. Did you also found it?

5 A [DR. WELNER]. I did, in 1998.

6 Q [CAPT EASON]. With respect to your private practice in
7 forensic psychiatry, have you examined people charged with crimes?

8 A [DR. WELNER]. I have.

9 Q [CAPT EASON]. How many, Doctor?

10 A [DR. WELNER]. Well over 200.

11 Q [CAPT EASON]. How many of these people were charged with
12 violent crimes?

13 A [DR. WELNER]. Well over 100.

14 Q [CAPT EASON]. In regards----

15 A [DR. WELNER]. I would say that the majority----

16 Q [CAPT EASON]. Please continue.

17 A [DR. WELNER]. ----the majority of the cases that I have
18 examined involve violent crimes.

19 Q [CAPT EASON]. In regards to your primary professional
20 position at the forensic panel, please tell the members what types of
21 cases you and your office are referred?

22 A [DR. WELNER]. Typically complex, high sensitive cases as
23 opposed to cases that are more standard to forensic psychiatry; for

1 example, competency to stand trial, insanity defense, the kinds of
2 things that you might associate with a forensic psychiatry practice.
3 We do--we are involved in those kinds of questions as well. I mean,
4 I just mentioned the Smart case, but that competency assessment was a
5 highly complex one and those are typically the cases that are brought
6 to our attention.

7 Q [CAPT EASON]. And how many specialists do you supervise at
8 the panel in your capacity as chairman, sir?

9 A [DR. WELNER]. Over 50.

10 Q [CAPT EASON]. Could you please give us some examples of some
11 of those folks?

12 A [DR. WELNER]. Dr. Michael First, Professor of Psychiatry at
13 Columbia University. He is the text setter of *DSM IV TR*, which is
14 our psychiatric diagnostic manual. Dr. John Oldom is the Chief of
15 Behavioral Health at the Menninger Clinic, Baylor University School
16 of Medicine, Houston, Texas. Dr. David Fowler is the Chief Medical
17 Examiner, Forensic Pathologist, for the State of Maryland. Dr. Nancy
18 Slicner is the former Chief Psychologist for the OSI, Office of
19 Special Investigation.

20 Q [CAPT EASON]. Is that the Air Force, Doctor?

21 A [DR. WELNER]. That's the Air Force.

22 Q [CAPT EASON]. You also supervise and train others at the
23 forensic panel?

1 A [DR. WELNER]. I do.

2 Q [CAPT EASON]. Okay. And have you trained these--Tell us,
3 specifically what do you train these students in?

4 A [DR. WELNER]. Graduate and post-graduate students in
5 psychology and particularly in forensic psychology intern at the
6 forensic panel and they come and learn in a hands-on way about the
7 practice of forensic psychology.

8 Q [CAPT EASON]. Have you trained these students specifically in
9 risk of dangerousness assessments?

10 A [DR. WELNER]. Certainly, the students are involved in the
11 cases within the practice and when risk of dangerousness cases come
12 up, they learn firsthand about what it entails.

13 Q [CAPT EASON]. And with respect to the other members on the
14 forensic panel, do you also provide supervision in the areas relating
15 to risk assessment and future dangerousness?

16 A [DR. WELNER]. Yes, sir, when we do cases in that regard.

17 Q [CAPT EASON]. Now you mentioned earlier that cases come to
18 you through referral; primarily how?

19 A [DR. WELNER]. Typically by word-of-mouth.

20 Q [CAPT EASON]. What criteria do you have for cases you are
21 going to work on, Doctor?

22 A [DR. WELNER]. Well we can only and will only work on cases in
23 which we feel that we have access to all of the information that the

1 attorneys would make available to experts. In other words, that we
2 are not going to work on a case when we see part of a file and have
3 part of a file kept from us. It seems sort of intuitive, but believe
4 it or not, sometimes people may comment and they may say, "Well, we
5 just want you to look at this and tell us what you think."

6 We have to be able to operate independently and so we are
7 typically given a case and we devise our own protocol for how to go
8 about addressing the questions, working them up, and there's no
9 recourse for interference from the attorneys.

10 Lastly, if we arrive at an opinion and advise the
11 attorneys, they have to accept our opinion. It is what it is and
12 they have to be comfortable with that before we even get started.

13 So, access, independence, and acceptance of findings are
14 prerequisites to our accepting a case.

15 Q [CAPT EASON]. Okay. What percentage of cases do you take
16 that are referred to your office?

17 A [DR. WELNER]. About 30 percent.

18 Q [CAPT EASON]. So you turn down 70?

19 A [DR. WELNER]. That's correct.

20 Q [CAPT EASON]. Why is that?

21 A [DR. WELNER]. Well there simply isn't enough time. That's a
22 big reason. There are a number of cases that we have referred to us
23 that are interesting and may have merit, may be appropriate for us,

1 but qualitatively it's a very demanding environment, whether it's the
2 other practitioners or me in being demanding on myself. And so, the
3 work on cases of these sensitivities is painstaking and if you are
4 going to have a much larger volume of cases in your office, then you
5 are not going to be able to give the attention and the scrutiny to
6 cases that you would like. So, we turn a lot of cases away and keep
7 the volume at a level that is manageable enough that we can give
8 serious attention to what is brought before us.

9 Q [CAPT EASON]. Do you also turn down cases from prosecutors?

10 A [DR. WELNER]. Oh, certainly, all of the time.

11 Q [CAPT EASON]. How about defense counsel?

12 A [DR. WELNER]. Absolutely, sur.

13 Q [CAPT EASON]. Do you have a backlog on cases right now?

14 A [DR. WELNER]. Yes, we do.

15 Q [CAPT EASON]. Why is that, Doctor?

16 A [DR. WELNER]. Again, things take time. There are unexpected
17 delays. Sometimes whether it has to do with scheduling or even a
18 source of information or evidence that doesn't emerge as quickly as
19 you would like to, you have to allow for that. So again, invariably
20 that is going to create a backlog, but we don't make those sacrifices
21 so we are able to work in a way that we feel that we maintain a
22 quality level.

23 Q [CAPT EASON]. Now is a forensic panel a professional

1 practice?

2 A [DR. WELNER]. Yes, sir.

3 Q [CAPT EASON]. Similar to a law practice or a business?

4 A [DR. WELNER]. Yeah.

5 Q [CAPT EASON]. Okay. So then, are you paid for your time?

6 A [DR. WELNER]. Oh, certainly.

7 Q [CAPT EASON]. Over the course of your career could you please
8 break down your percentage of work between prosecution and defense?

9 A [DR. WELNER]. Over the course of my career, I have consulted
10 to the prosecution approximately 60 percent of the time and to the
11 defense approximately 40 percent of the time in criminal cases.
12 Again, civil cases involve a different breakdown, but that's in the
13 criminal realm.

14 Q [CAPT EASON]. Let's talk about future dangerousness
15 specifically, Doctor. What types of criminal cases have you examined
16 for future dangerousness?

17 A. I have experience in the assessment of future
18 dangerousness, of future risk of violence, future dangerousness with
19 respect to future risk of criminality, non-violent criminality,
20 future dangerousness in the context of sex offense, pedophilia, rape,
21 other kind of sexual violence or sexual offense, risk assessment of
22 relapse of substance abuse, especially in the context of someone who
23 is violent or breaks the law when abusing and more substance

1 dependent. In addition to that, risk of dangerousness in capital
2 defendants and they're a different breed from a typical risk
3 assessment because there are special considerations of someone who is
4 eligible for the death penalty that go into such an assessment. In
5 addition, risk assessment for relapse in child pornography. I assist
6 in an emerging psychiatric legal dilemma that has come up that my
7 experience has involved itself in. And lastly, something that
8 straddles the area of the criminal law and the employment arena, risk
9 assessment in stalking cases, which sometimes aren't violent at all,
10 sometimes are, sometimes are merely nuisances but again they have
11 their own personality and also risk for workplace violence. It is a
12 phenomenon that unfortunately we are all too familiar with.

13 Q [CAPT EASON]. I think you mentioned some of these, Doctor,
14 but do all of these analyses for risk of future dangerousness compose
15 unique qualities?

16 A [DR. WELNER]. Oh, absolutely. What you would do in a risk
17 assessment for -- just as an example, risk assessment of violence in
18 a community is different from what you would do for risk assessment
19 of violence in a capital defendant. You would approach it
20 differently, and some of them may be self-evident. What you would do
21 in risk assessment in sex offense may be quite different from what
22 you would do in risk assessment for child pornography recidivism.

23 Q [CAPT EASON]. Well fundamentally, what do you aim for to

1 enhance the validity of your risk assessment efforts?

2 A [DR. WELNER]. Fundamentally what you do in risk assessment is
3 combine clinical data that links to the context that you are
4 examining with some kind of actuarial statistical measure together
5 and embed it in the available literature and background that relates
6 to your topic.

7 Q [CAPT EASON]. You just mentioned actuarial measures?

8 A [DR. WELNER]. Yes.

9 Q [CAPT EASON]. What do you mean by that, Doctor?

10 A [DR. WELNER]. Well there are a number of tests, some people
11 call them psychological tests but some people just refer to them as
12 inventories, because some of them you are merely gathering history --
13 the PCLR, the psychopathy checklist, the violence risk assessment
14 guide, those are two that are well known, the level of service
15 inventory, DLSI. I mean, there are a number of them, and they come
16 out, and they come out, and come out, which is why I guess you have
17 to go and get recertified because you have to know and be aware of
18 what these tests do. But the tests are informative in some domains
19 and in some other areas of risk assessment they've never been tested
20 and you really can't apply them. But what they do is they enable you
21 to have some kind of a numerical figure that you can arrive at; for
22 example, this person who has psychopathy, is by virtue of their
23 psychopathy they are more likely to be a risk in this kind of context

1 and that's how it works, not in and of itself, it's something you
2 apply with clinical information and what you learn in review of
3 records and other literature that gives context to the population and
4 the setting that you are working with.

5 Q [CAPT EASON]. So, Doctor, are the available actuarial
6 measures, are they readily applicable for all circumstances, all
7 situations?

8 A [DR. WELNER]. No. No.

9 Q [CAPT EASON]. Could you please explain that?

10 A [DR. WELNER]. In fact, there are some--there are some in
11 which you can't use actuarial measures but you have to do the best
12 you can. I mentioned pornography; that's a great example. A
13 workplace violence risk assessment, you don't--you know, you can use
14 an actuarial measure but there is certainly a school of thought that
15 says that that can be misleading and you are better off without it.
16 So, in some kinds of psychiatric legal questions actuarial measures
17 have a very well established role and they are excellent and I use
18 them, and in some areas they can be potentially misleading and they
19 aren't necessarily going to inform, so you are better off not using
20 them.

21 Q [CAPT EASON]. I just want to make sure of one thing, are they
22 readily applicable in capital defendants?

23 A [DR. WELNER]. That is a controversial area. The answer is

1 that they are not, although there is a lot of fighting going on in
2 the scientific community and literature about certain tests which may
3 or may not be. So, the short answer is that the use of actuarial
4 measures is a lot weaker in capital defendants, but some people feel
5 that it still has some value.

6 Q [CAPT EASON]. So in these areas where you don't have any
7 actuarial measures, what do you rely on then to inform your
8 assessment of risk for future dangerousness?

9 A [DR. WELNER]. You learn about your population, you learn
10 about your settings, you learn about your capital defendant, you
11 learn about where they are going to be, you learn about different
12 kinds of qualities that have been associated with infraction
13 violence, management problems in a custodial environment for example
14 and again, that's a combination of what you can learn about the
15 person, what you can learn about the context of the assessment that
16 you are given and putting it all together the best you can.

17 ATC [CAPT EASON]: Your Honor, at this time we would tender Dr.
18 Michael Welner as an expert in forensic psychiatry.

19 MJ [COL PARRISH]: Any objection?

20 DC [LTC JACKSON]: No, Your Honor.

21 MJ [COL PARRISH]: He is so recognized.

22 ATC [CAPT EASON]: May I approach, Your Honor----

23 MJ [COL PARRISH]: Sure.

1 ATC [CAPT EASON]: ----to mark Dr. Welner's *curriculum vitae*?

2 MJ [COL PARRISH]: Sure.

3 [The assistant trial counsel handed the *curriculum vitae* to the court
4 reporter for marking. The court reporter marked the same as PE 37
5 for ID and returned it the assistant trial counsel.]

6 ATC [CAPT EASON]: Prosecution Exhibit 37 [for identification]
7 is a 24-page document.

8 I'm handing a copy to the court reporter. Prosecution
9 Exhibit 37 [for identification] is a 24-page document of Michael
10 Welner's *curriculum vitae*.

11 MJ [COL PARRISH]: Any objection?

12 DC [LTC JACKSON]: No, Your Honor.

13 MJ [COL PARRISH]: It is admitted as marked.

14 **Questions by the assistant trial counsel, Captain Eason, continued:**

15 Q [CAPT EASON]. Dr. Welner, what were you asked to do in this
16 case? At the outset of your testimony we discussed some things,
17 let's come back to that. What were you asked to do in this case,
18 Doctor?

19 A [DR. WELNER]. I was asked to assess Omar Khadr for the risk
20 of his dangerousness as a violent jihadist.

21 Q [CAPT EASON]. Now specific to this hearing, Doctor, that's
22 what you are doing, but for this case overall, Doctor, can you please
23 inform the members an understanding of that?

1 A [DR. WELNER]. I have been asked to do a number of different
2 things in this case at different stages. Do you want me to enumerate
3 them or no?

4 Q [CAPT EASON]. Just generally, Doctor.

5 A [DR. WELNER]. Okay. Generally, there were a number of
6 pretrial issues that came up, that the attorneys had asked that I
7 inform them about and to study and examine and consequently I
8 reviewed quite a volume of information to inform those points.

9 Q [CAPT EASON]. What is the total number of hours that you
10 worked on this case, Dr. Welner?

11 A [DR. WELNER]. I've worked several hundred hours. I would
12 say, probably, somewhere between 5 and 600 hours.

13 Q [CAPT EASON]. And what are the perimeters of what you have
14 examined here?

15 A [DR. WELNER]. I mentioned earlier the nature of the risk of
16 dangerousness assessment that I have been asked to advise about here.
17 Specifically, the risk for activities that would relate to violent or
18 criminal expression of jihad; secondly, of the prospects for Omar
19 Khadr's reintegration; aspects of Mr. Khadr that would represent a
20 low risk or a high risk in terms of his prognosis; the idea of
21 deradicalization and whether there is a need for deradicalization
22 with Omar Khadr or whether it can even be done with Omar Khadr; and
23 those are the primary areas of focus that I was asked to look at.

1 Q [CAPT EASON]. Let's focus on one area though. You just
2 mentioned deradicalization?

3 A [DR. WELNER]. Yes, sir.

4 Q [CAPT EASON]. Define radical.

5 A [DR. WELNER]. "Radical Islam" is differentiated from
6 traditional Islam in that the ideology of radical Islam will not
7 submit to living in a state or a world that is not governed by
8 Sharia. In other words, the law of Islam is superior to the law of
9 the state and radical Islam supports and employs violent means in
10 order to affect that turnover from civil law to a theocracy, whether
11 it be in a particular country, whether it be in a particular reason,
12 or whether it be globally, depending on the individual and one's
13 personal interests.

14 Q [CAPT EASON]. And what special consideration, if any, did you
15 have to account for here in the case of the accused?

16 A [DR. WELNER]. Well, he's murdered. He has been part of Al
17 Qaeda, a terrorist organization, and we are still at war, and it's a
18 war that's not ending anytime soon, although it will be evolving, so
19 these are three considerations certainly that provide context. One
20 is history because past history is informative of future history and
21 Al Qaeda has its own legacy which has been discussed and I suppose
22 will be discussed, and the context of an on-going war certainly I
23 would look at this differently if the war was ending. My frame of

1 reference is that it is not ending anytime soon. So that lends
2 itself a distinct perspective to this.

3 In the context of risk of dangerousness in a radical jihadist,
4 the issue is multiple. First of all, killing, killing and violence;
5 second of all, facilitating, financially is someone in a position to
6 or would be in a position to financially facilitate violent attacks
7 or organizationally facilitate violent attacks; and then lastly, the
8 capacity to lead, to be a leading figure, to be a lightning rod or
9 someone who gives ignition to terrorism and inspiration to it. For
10 example, in Yemen, al-Awlaki is someone that everyone is now familiar
11 with, nobody knew who he was a year ago, and I would imagine that if
12 he walked into the room and said nothing, he would be pretty
13 nondescript, but now everybody knows him because Abdulmutallab, the
14 Christmas Day bomber was inspired by him, Nidal Hasan, a
15 psychiatrist, somebody with medical training, went to Fort Hood and
16 decimated and murdered quite a number of military personnel. So, Mr.
17 al-Awlaki doesn't have to be violent himself in order to certainly be
18 a highly dangerous individual in the context of radical jihadism.

19 Q [CAPT EASON]. Before we break it down and get into your
20 reasons which you relied on and your methodology. Ultimately were
21 you able to come to an opinion regarding the accused's risk for
22 future dangerousness?

23 A [DR. WELNER]. I have.

1 Q [CAPT EASON]. Please, Doctor, tell us what that opinion is?

2 A [DR. WELNER]. He is highly dangerous.

3 Q [CAPT EASON]. Let's break it down.

4 A [DR. WELNER]. Yes, sir.

5 Q [CAPT EASON]. Please summarize the methodology you employed
6 in coming to this opinion?

7 A [DR. WELNER]. Okay. Within the past year a study has been
8 published with a lot of data on young Muslims in a correctional
9 setting by a psychologist in Copenhagen, Denmark, who for a number of
10 years has treated Muslims as well as non-Muslims. The study is
11 really the first in terms of its scope, kind, that's informative of
12 efforts to reintegrate a Muslim inmate into western society. Dr.
13 Nicolai Sennels put this together and published it and it provides
14 some clinical input about good prognostic factors and worst
15 prognostic factors that one might account for in looking at a younger
16 population. And so I incorporated the input from Sennels' work, I
17 also looked at deradicalization programs from all over the world,
18 understanding how they are set up, how they are constructed, what
19 they are for, when they are more likely to be successful, when they
20 are less likely to be successful, the influences and the different
21 features of each. I also relied on information from a tremendous
22 case file with a lot of input on Omar Khadr and his background, some
23 information not even available in the case file; for example, I went

1 out and found out every single videotape that I could, done in
2 English of course, of interviews that were done by his family members
3 on television worldwide. I have got--I have never benefited from an
4 evaluation by television and television reporting as I have here in
5 terms of what I have been informed about the Khadr Family.

6 Q [CAPT EASON]. Let me stop you right there, Doctor, and just
7 follow-up on that one specific area. Family members, which family
8 members are we talking about here?

9 A [DR. WELNER]. Interviews of his sister Zaynab, interviews of
10 his brother Abdurahman, interviews of his brother Abdullah,
11 interviews of his mother Maha.

12 Q [CAPT EASON]. Okay.

13 A [DR. WELNER]. I interviewed--and actually, an interview of
14 his brother Kareem. I have not seen an interview of his sister
15 Maryam, but there may be one out there, but that is not something
16 that I had incorporated into my evaluation. But the point that I
17 wanted to underscore is that I had a tremendous amount of information
18 provided to me by the attorneys and I supplemented that by taking my
19 own initiative and finding information even that the attorneys did
20 not have access to that I simply found on the internet because
21 somebody happened to release it to the internet. So, incorporating
22 all of that together----

23 Q [CAPT EASON]. Let me ask you this, Doctor, what about

1 statistical data; did you also rely on statistical data?

2 A [DR. WELNER]. I was going to get to that.

3 Q [CAPT EASON]. Please.

4 A [DR. WELNER]. I also relied upon precedent. Data,
5 statistical data about precedents for reengagement, specifically
6 people getting back into the armed conflict, of those who have been
7 released from GTMO already.

8 Q [CAPT EASON]. And your interview of Mr. Khadr, did you also
9 rely on that?

10 A [DR. WELNER]. That is part of what I had just mentioned
11 before. I relied upon it, yes and no. It was informative in certain
12 respects. It was not informative in others.

13 Q [CAPT EASON]. Yeah, let's talk about that for one second.
14 Where and when did that take place, sir?

15 A [DR. WELNER]. It took place in June. I believe, June 16, 17,
16 here at Camp Echo.

17 Q [CAPT EASON]. How long was the exam?

18 A [DR. WELNER]. Approximately 7 to 8 hours and the examination
19 was videotaped.

20 Q [CAPT EASON]. Why was that?

21 A [DR. WELNER]. Well I wanted to provide transparency to Mr.
22 Khadr's attorneys and to the process, and so there is a record that
23 is available to Colonel Jackson and co-counsel of what we discussed,

1 what I asked him, how I asked him, what his responses were, and so
2 that's standard operating procedure for how I conduct my interviews.

3 Q [CAPT EASON]. Now you just talked about a tremendous case
4 file supplemented with other data?

5 A [DR. WELNER]. Yes, sir.

6 Q [CAPT EASON]. Please, and this may be a long answer, but
7 describe the material you reviewed in the course of conducting your
8 evaluation of this matter for his risk of future dangerousness?

9 A [DR. WELNER]. Well I reviewed--in the course of my work on
10 this case, I reviewed somewhere around 150 sources of information and
11 that includes interviews with folks. For purposes of this evaluation
12 and really to try to keep things moving and not bog you down, what I
13 will tell you is that I reviewed all available reports that had been
14 prepared about Mr. Khadr that were my classification level, all
15 available reports that had been prepared by psychologists,
16 psychiatrists attached to this case, that related to his background
17 and that information, all notes that had been provided to me by those
18 mental health professionals of the defense. All information, as I
19 mentioned that would inform the background of his family including
20 some materials that might have been available in books from people
21 who have treated this subject in longer form. I also interviewed the
22 Director of the Joint Intelligence Group. Is that the correct title?

23 Q [CAPT EASON]. Yes, Doctor.

1 A [DR. WELNER]. The Joint Intelligence Group, on three
2 occasions, on one of those occasions I interviewed a number of
3 different supervising guards who have interacted with Mr. Khadr over
4 the years, informing me about a number of different aspects of just
5 him, how he relates, how he interacts, their experiences of him, his
6 progress, how he has evolved over time. I also interviewed a number
7 of different intelligence analysts in terms of what kind of data
8 might be available about Mr. Khadr, informing the different aspects
9 that are specifically relevant to the question of risk of
10 dangerousness of a radical jihadist.

11 Q [CAPT EASON]. Joint Intelligence Group, is that here at
12 Guantanamo Bay?

13 A [DR. WELNER]. That's down the street, I guess. That's here.

14 Q [CAPT EASON]. Did you--and I just want to clear this up real
15 quick. Did you--earlier you mentioned the depravity scale that you
16 did additional research on. Did you rely on that, sir, in this
17 opinion?

18 A [DR. WELNER]. No, I did not.

19 Q [CAPT EASON]. Let's move on here. Let's jump into the first
20 area that you discussed, I believe it was Dr. Sennels?

21 A [DR. WELNER]. Yes, sir.

22 Q [CAPT EASON]. Okay. Sir, he had work published. Please tell
23 us about the work that has been published in this area?

1 A [DR. WELNER]. Dr. Sennels' book is called *Among Criminal*
2 *Muslims*. Dr. Sennels--the reason that I have found his work
3 intriguing and informative, in part, I mean I have conducted an
4 evaluation that incorporates a number of different things, but the
5 reason that I found it helpful and informative is because Dr. Sennels
6 is engaging his young patient population in an entirely therapeutic
7 capacity. He has people coming to him and he is given the
8 assignment, make this guy ready to go back into the community. So he
9 is not at all involved in evaluations or the adversarial system or
10 court or any of that. He just has patients, he's a psychologist, and
11 he's been treating them.

12 Secondly, he has a structured treatment protocol, and so
13 again, if you want to learn about whether something's helpful,
14 whether it's not, it's always useful to be able to look at something
15 that has been done in a systematic way so that you actually know that
16 you can learn from it, because if you are going to do what that
17 person did well, you do what he did every day of the week and not
18 just on Tuesday and not on Thursdays. So he had a structured
19 treatment program, which was entirely remeditative in its focus.

20 Another valuable feature of it is that Sennels was actually
21 comparing a substantial Muslim population with a non-Muslim
22 population. So one of the things in emerging areas that is always
23 difficult to navigate is that when people do research, it's on 5 and

1 3, and 10, and small numbers and they may be well presented and they
2 may be interesting, you ask yourself, what can I really learn from
3 this? So, I was impressed at the size of his sample.

4 And finally, Dr. Sennels wasn't afraid to admit that he had
5 failed. We all have our pride in the scientific community and it's
6 usually pretty hard to find a scientist who will admit his failures
7 and when what he is doing isn't working and to try to do a postmortem
8 on it, so I certainly applaud his integrity. I don't want to give
9 the court the impression that he doesn't know what he's doing but
10 that always impresses me actually as much as reading about someone's
11 successes, is when they can admit when they're imperfect. So, I
12 think that in that sense, it was a helpful and informative research
13 and perhaps it will continue to be in this area.

14 Q [CAPT EASON]. What is the significance of his work being
15 entirely remeditive, as you just mentioned?

16 A [DR. WELNER]. Well, I think that it's healthy to incorporate
17 an optimistic perspective whenever possible and a clinician differs
18 from a forensic person in their inherent optimism. Just going back
19 to the example of when we started the day, if you come to me and you
20 give me your symptoms of sleep and appetite problems, I want to
21 believe that you will walk out of my office in 2 months well. I
22 don't want to see storm clouds on the horizon. I want to take on
23 that responsibility and say, if you get well, it's an accomplishment

1 that I've done and if you don't get well, I've failed. That's the
2 clinical mindset. It's the clinical mindset in psychiatry. It's the
3 clinical mindset in surgery. That's why it's fun to be a doctor.

4 It is very different in the forensic setting. It is much
5 more of an emphasis on the pressures of being accurate and accurate
6 means that sometimes the news is bad. And you don't count when it's
7 bad news from a clinical mindset unless, of course, you are
8 detoxifying it. So I think the fact that Sennels was bringing a
9 clinical mindset to this was appropriate for at least injecting where
10 psychology and psychiatry might be relevant.

11 Q [CAPT EASON]. Now in regards to his work as a whole----

12 A [DR. WELNER]. Hmm.

13 Q [CAPT EASON]. ----why is that important to you in the context
14 of your opinion for Omar Khadr?

15 A [DR. WELNER]. Because he's dealing with young Muslim inmates
16 who face the prospect of reintegration and a concerted effort to try
17 and make it work, so in a risk assessment context, it is certainly
18 relevant.

19 Q [CAPT EASON]. Did you interview Dr. Sennels?

20 A [DR. WELNER]. I did.

21 Q [CAPT EASON]. And what did you learn from him?

22 A [DR. WELNER]. When I interviewed him--I need to make it
23 clear, I interviewed him because his book is in Danish and I was

1 waiting for his book to come out in English and it wasn't, so I just
2 picked up the phone and spoke to him by telephone and posed
3 questions that related, in general, to Mr. Khadr without getting into
4 the substance of the case. But I asked him about his findings
5 specifically as they relate to what he found that is associated with
6 the better prognosis in inmates, young Muslim inmates, as opposed to
7 what is associated with a worse prognosis.

8 Q [CAPT EASON]. Okay. Did you speak to him in Danish?

9 A [DR. WELNER]. No.

10 Q [CAPT EASON]. No, what language, Doctor?

11 A [DR. WELNER]. I spoke to him in English.

12 Q [CAPT EASON]. All right.

13 A [DR. WELNER]. I think Europeans are a little bit different
14 about the multilingual thing than we are.

15 Q [CAPT EASON]. Well, please explain the risk factors he
16 referenced for a positive prognosis for criminal recidivism,
17 violence, and poor reintegration?

18 A [DR. WELNER]. Risk factors for a more positive prognosis,
19 from Dr. Sennels' work, are remorse for one's actions and
20 Westernization -- degree of Westernization.

21 Q [CAPT EASON]. Let's talk about remorse in the context of the
22 accused. What speaks to his remorse?

23 A [DR. WELNER]. Well there have been occasions where Omar Khadr

1 has expressed regret to interviewers and the remorse that I have
2 found, explained to me by at least one of them, is that he regretted
3 having done something that would cause him to be brought here to
4 GTMO. So his remorse was primarily related to his being in custody,
5 having been brought to custody, as opposed to killing Christopher
6 Speer and having laid mines that had substantial destructive
7 potential. But he did express, on occasion, that he regretted doing
8 what he did to a couple of people.

9 Q [CAPT EASON]. What was your source for that data point,
10 Doctor?

11 A [DR. WELNER]. Well what I just referenced was Interviewer 11
12 who I actually had a opportunity to question Interviewer 11 about the
13 death and expression of his remorse and which he indicated to me when
14 I spoke to her, was that his expression was shallow. It was matter-
15 of-fact and that it was really more, as a practical matter, that if
16 he had not done what he had done, then he would not be at GTMO.

17 Q [CAPT EASON]. Well what evidence, of your view, speaks to his
18 lack of remorse?

19 A [DR. WELNER]. In interviews with--in earlier interviews after
20 his being taken into custody, Mr. Khadr characterized his laying of
21 mines as the proudest moment of his life. On multiple occasions,
22 including from interviewers as well as in records of his time in
23 custody, Omar Khadr was bragging for having killed an American

1 Soldier. In one interview he spoke to an interviewer and said that
2 when he gets angry with the guards, it makes him feel good when he
3 thinks and recalls that he killed an American Soldier.

4 In my interview with him, I showed him the videotape of his
5 laying mines and preparing them, to get a sense of his reaction and
6 how he was affected by it, and he was very resentful of having to be
7 confronted with his actions and annoyed at the whole experience. I
8 didn't experience any sense of remorse. In fact, in my interview
9 with him I asked him if he regretted any of his actions and he was
10 very defensiveness and he essentially said that he had nothing to
11 regret.

12 Q [CAPT EASON]. When was your interview again, Doctor?

13 A [DR. WELNER]. June of this year.

14 Q [CAPT EASON]. Did you experience him as ashamed?

15 A [DR. WELNER]. I did not.

16 Q [CAPT EASON]. Please explain that?

17 A [DR. WELNER]. I experienced him as embarrassed, but
18 embarrassed in the sense of being confronted with something for which
19 there was really no explanation. We had the experience of sitting in
20 a room and he was smiling and putting together, assembling bombs,
21 quite comfortably next to a senior person next to him and he knows
22 what he is doing. There is no concern for safety and then later on
23 again, smiling, and comfortable with the people around him, the

1 adults around him. He is participating in a bomb laying exercise and
2 saying at some point that, "I hope we get a lot of Americans." So he
3 sat with me watching that tape and he did not want to sit with me.
4 So I experienced his reaction was embarrassment than being ashamed
5 over having participated in something like that.

6 Q [CAPT EASON]. Let's look to the second factor that Dr.
7 Sennels talked to you about -- the risk factors for positive
8 prognosis. What were those again, Doctor?

9 A [DR. WELNER]. Westernization.

10 Q [CAPT EASON]. Okay. Let's talk about that. What evidence
11 did you find relevant to an assessment of Omar Khadr's integration to
12 Western values now and Westernization?

13 A [DR. WELNER]. Well, he speaks English and his English has
14 always been excellent and he's very charming and carries himself in a
15 way that I even talked about in our interview, with a certain grace.
16 So on a superficial level he is really comfortable not only--he's
17 comfortable with Westerners, and as he explained to me in our
18 interviews, he's really comfortable with everybody. He interacted
19 with many people of many different cultures from early in his life,
20 which is very different from a number of the other al Qaeda folks
21 that he would run into who were much more limited in their cultural
22 experience. However, during his time in GTMO, the information
23 available about his westernization is really absent and limited; for

1 example, he has memorized the Qur'an and studies it energetically.
2 There have been interests expressed by a number of people about
3 developing him beyond an 8th grade education. He certainly is very
4 street smart, and he expressed motivation. But brought books and
5 brought materials; he took no initiative to develop himself
6 academically in secular studies. When it came to his Islamic
7 studies, he developed himself so acutely that he regularly leads
8 prayers among a block composed of entirely devout confederates. So
9 he's the one who leads because the others have that level of regard
10 for him reflecting his study and skill, and yet, he has not invested
11 anywhere near a comparable energy in developing himself academically.
12 When asked about that the explanation that he has given is that he
13 needs a structured classroom. But he doesn't need a structured
14 classroom to memorize the Qur'an, which is certainly something that
15 is an impressive feat and something that he should be proud of and
16 is.

17 In terms of just the acculturation, there is no evidence
18 from his time in incarceration of acculturating. Granted, he is on--
19 he is on--he is in Unit 4, Camp 4, and he is marinated in radical
20 jihadism with everybody around him having a very hardened histories
21 even though they are polite and compliant; however, however, he does
22 interact with guards. He does interact with enough people that he
23 can--that he can develop, even in a superficial level, a much greater

1 acculturation to western society than he has manifested to this
2 point. He reads Harry Potter but you know, in terms of reading
3 escapist materials, which is what he has actually described to me, he
4 reads things to just get away, to not think about things. He is very
5 angry about being in custody, but he does not involve himself in the
6 kinds of things that would acculturate him to this western
7 environment.

8 Q [CAPT EASON]. Doctor, conversely, let's talk about the risk
9 factors in Dr. Sennels' reference for a poor prognosis----

10 A [DR. WELNER]. Yes.

11 Q [CAPT EASON]. ----for criminal recidivism, violence, and poor
12 reintegration; please explain those?

13 A [DR. WELNER]. Poor prognosis is associated with being
14 religiously devout. In other words the more religious the person,
15 the more poor the prognosis is;

16 Secondly, the level of anger that the person has; and

17 Third, who the person identifies with.

18 Those were the three key factors.

19 Q [CAPT EASON]. How did Dr. Sennels' account for the reasons
20 that the devout have a poor prognosis for future dangerousness?

21 A [DR. WELNER]. His best sense is that part of the observance
22 and adherence to Islam is submission, submission to the Qur'an,
23 submission to what the Imam says, submission to paternal and superior

1 influences and while that may cultivate obedience and it may really
2 enhance structure and order in certain context. At the same time
3 what he finds, as a clinician, a drawback of that is that it makes it
4 much more difficult for somebody to be introspective. The locust of
5 control that someone has on their life is always someone else. It's
6 someone else's fault. It's someone else who has control. And in
7 someone who is more introspective and more self-reliant, the person
8 takes responsibility, takes ownership, takes a look at the
9 predicament that they are in and says, "What can I learn from this?
10 How can I go forward? How can I better myself? How can I develop?
11 How can I grow?" That, from his experience, is the best explanation
12 for the relationship between how devout a person is and how that
13 devoutness actually increases a risk of poor prognosis.

14 Q [CAPT EASON]. Okay, Doctor. If you could, please this factor
15 in the context of your assessment of the accused for future
16 dangerousness?

17 A [DR. WELNER]. Well, in my professional opinion, he has
18 certainly become more devout in custody. He was devout when he came
19 in and he's even more devout now. It's something that means a lot to
20 him. The study of the Qur'an is a very significant part of his life.
21 It's something that I saw noted, documented even in Dr. Porterfield's
22 notes from earlier this year.

23 Q [CAPT EASON]. If you could, Doctor, who is Dr. Porterfield,

1 just for the members?

2 A [DR. WELNER]. He is a psychologist who has examined him at
3 the request--actually who has been--who has been working with him at
4 the request of the defense.

5 Q [CAPT EASON]. Please continue.

6 A [DR. WELNER]. And among people, including people with great
7 prestige, he's the one who is chosen by everybody to lead them in
8 prayers. That's a lot of respect for someone's capacity for prayer,
9 for his religious focus, for his religious groundedness, that means a
10 lot. From my discussions with other people familiar with the inner-
11 workings of the camp, that means a lot to the people in the camps
12 about how sincere a person's devout observance is, so this is how it
13 is acknowledged and recognized tangibly. And so at this point it is
14 my professional opinion that he was devout coming in and he's
15 exceptionally more devout now.

16 Q [CAPT EASON]. Let me jump back a step. If you could, what
17 did Dr. Sennels find with respect to the importance of how devout
18 their background was? Did you understand?

19 A [DR. WELNER]. I understand the question.

20 Q [CAPT EASON]. Yes, please.

21 A [DR. WELNER]. How devout you are coming in is at least how
22 devout you are going out. The devout who come into custody don't
23 become less devout over the course of their incarceration. They

1 become more devout. There are--the people who do not come in devout,
2 who, you know, are not necessarily affiliated with any religion could
3 go either way. But in the devout patients that he had, who were
4 devout when they came in, they either remained as devout as they were
5 or they became even more passionate about their religion in the
6 course of their custody.

7 Q [CAPT EASON]. Doctor, let's move on to the anger factor.
8 Please assess the anger factor that Dr. Sennels gave importance to?

9 A [DR. WELNER]. Well, in addition to just the notion of how
10 angry a person is, and we all know what anger is from our own
11 personal understanding. Dr. Sennels' umbrella of anger included a
12 personality tendency to blame others around them, to find
13 justification in what a person does, to find provocation in what
14 other people do, to be alienated, to be mistrustful of others, and
15 also to deny anger, to carry as if those emotions didn't exist and
16 did not need to be detoxified.

17 Q [CAPT EASON]. Have you studied and spoken to the accused
18 about his prison experience?

19 A [DR. WELNER]. I have.

20 Q [CAPT EASON]. And what did you experience with him
21 specifically in regards to this anger factor Dr. Sennels gave
22 importance to?

23 A [DR. WELNER]. Oh, he's full of rage and it's at the beginning

1 and it's at the end. It is his belief that he shouldn't have been
2 here for a day, that he shouldn't have been here for a minute, and
3 that it is everybody else's fault that he is here. He is deeply
4 resentful of it and bitter, and this is also reflective, at least to
5 some degree, in his psychological testing. Now, let me make
6 something clear.

7 Q [CAPT EASON]. Please.

8 A [DR. WELNER]. He is more than just angry. He is--he has a
9 range of emotions. But to deny that he has significant anger is to
10 miss the emotions behind the suit and the relaxed carriage. He does
11 have a lot of emotions that relate to his experience and he does
12 express them when you sit down and listen to him.

13 Q [CAPT EASON]. Now, Dr. Welner, is there anything else of
14 significance to add to this factor Dr. Sennels has given importance
15 to in regards to the accused?

16 A [DR. WELNER]. Something may occur to me later, but nothing
17 that immediately comes to mind.

18 Q [CAPT EASON]. Okay, very well. Let's move on then to the
19 third factor----

20 A [DR. WELNER]. Hmm.

21 Q [CAPT EASON]. ----whom one identifies with.

22 A [DR. WELNER]. Hmm.

23 Q [CAPT EASON]. With respect to whom the accused identifies

1 with, what information do you have for us?

2 A [DR. WELNER]. Well, derived from what I had mentioned before,
3 the sources that I have been fortunate enough to be able to have
4 access to, to review. It may have been quite many. My professional
5 opinion, he identifies most closely with his family and to a lesser
6 degree, on a day-to-day basis, with the other detainees in Camp 4.

7 Q [CAPT EASON]. Let's talk about his family first. How does
8 the accused's family, and you mentioned them earlier, how do they fit
9 into your analysis, Doctor?

10 A [DR. WELNER]. Well, it's quite significant, because his
11 family is quite radicalized, with the exception of one person that I
12 just don't know about, so I don't have an opinion about it and
13 that's, as I mentioned, Maryam. Zaynab has been quite open and quite
14 expressive of her radical views in many different contexts, not only
15 as it relates to Omar, but also as it relates to others and to the
16 west. She once, for example, offered an appraisal of a suicide
17 bomber saying that she admires them for their bravery and she doesn't
18 have that kind of bravery yet. So, I think that that's an example of
19 how ardent her ideas are ideologically and she's ideologically
20 radical.

21 Omar Khadr's mother is also very open, has been, has
22 conducted a number of media interviews and has provided those kinds
23 of communications that are open source in which she's conveyed these

1 kinds of ideas.

2 His brother, Abdullah, said on *Frontline*, "We are an al
3 Qaeda family," and acknowledged his own involvement in terrorist
4 activities. He was again arrested for terrorist activities and he
5 was ultimately released by the Canadian government, so he is a
6 terrorist who is at-large. Now, he may have been innocent with
7 whatever he was charged with, but he acknowledged his own involvement
8 in terrorist activities and he is at-large and he is living with the
9 family and they are all together. He went to al Qaeda training camp.
10 It was part of his earlier years.

11 Abdurahman, another brother, was also part of an al Qaeda
12 training camp. He also has been very open with saying, "Our family,"
13 "Our family," not just me, not just my late father, "we're involved
14 very much in al Qaeda." He asserts that he was working for the
15 United States and renounced his involvement in al Qaeda, went away
16 from the family, but then came back to Toronto.

17 Most recently, I remembered seeing a video of Abdullah in
18 which Abdurahman was right there in the background. So,
19 notwithstanding that he renounced and he may have been at some point
20 working for the U.S. Government, all is forgiven and forgotten, and
21 they are together.

22 His brother Kareem, who was badly injured in an earlier
23 military action in Pakistan in which Omar Khadr's father was killed,

1 said on television that he wanted to be a suicide bomber, that he
2 wanted to be a martyr, and he and his mother said that he talks all
3 of the time about 72 virgins and how wonderful they would be. And he
4 has had criminal charges brought against him in a non-terrorism
5 capacity, but certainly he has confronted criminal charges.

6 According to Mr. Khadr in our interview, one of his other
7 brothers was provided--faced charges of domestic violence around the
8 time of our interview.

9 And so, this is family that is his primary support system
10 and a family that he is very close to, and a family that is very
11 close to him, considers him a hero, encourages him as such, is very
12 proud, not at all modest about how proud they are, and has garnered a
13 lot of attention around the world in how defiantly proud they are of
14 Omar and how he fits into the family.

15 It is, however, a leaderless family because there are
16 questions about how religious Abdurahman is. He is much more
17 westernized and has been publically known to enjoy a fun life and not
18 as serious. And Kareem is younger, he is physically disabled.
19 Abdullah and Omar are different, but Omar has always been
20 acknowledged and he told me this himself, that he is the favorite.
21 He is the favorite son. And as he was growing up, he was translating
22 for his father as his father was a leading figure in al Qaeda, and he
23 was going around with his father at a young age and translating, for

1 example, in Pashto. Pashto, in Afghanistan, with his father a senior
2 person in al Qaeda, Pashto is a language that he would need to speak.
3 So, Omar Khadr, at that time, was important--was integral to his
4 father's needs. What he learned and what he knew, that's something
5 that only Omar can disclose, but there is really no disputing that he
6 has been the favored child in the family and he has only reinforced
7 that by his custodial experience of learning the Qur'an, being
8 devout, being very religious, in a way, being the exact opposite of
9 one brother who is carousing, and the other who beats up his wife,
10 and the other who gets arrested for sexual improprieties. So in that
11 sense, he has become the white sheep of the family even as he is here
12 and admitted murder at GTMO.

13 Q [CAPT EASON]. Doctor, let's follow-up on that very briefly.
14 Protecting family enterprise, please discuss that phrase in the
15 context of the accused's family and how that fit into your analysis?

16 A [DR. WELNER]. Abdurahman, in an earlier interview, was--he
17 spoke of the experience of being down here at GTMO and communicating
18 with Omar and how Omar told him just say "It's a charity," basically
19 encouraging him to keep up the phony front that the family was not
20 involved in terrorism and Omar in a very -- from personal experience
21 -- very compelling way, he will look you right in the eye and say "My
22 father was never involved in terrorists. He was never involved. He
23 was a charitable person." So, notwithstanding all of the information

1 that has been written, even by media propagandist who are very strong
2 advocates for Khadr, about what a terrorist his father was, he
3 insists and has insisted in interviews that, no, he is not. So in
4 his interactions with Abdurahman he did protect the family
5 enterprise, in other words, carry on this story.

6 Zaynab, in reflecting on Abdurahman's openness about there
7 being what they call an "al Qaeda family," not just so-and-so is in
8 al Qaeda, it's a "family." She lamented Abdurahman's openness, but
9 what she lamented was, "Everything that my father ever built, we have
10 to start from zero again." This is well-after the father had died.
11 So, it was past, and at least up to the point of that interview, it
12 was present and it was something that was viewed not from an
13 individual choice and an individual standpoint, but indeed as a
14 family enterprise.

15 Q [CAPT EASON]. And doctor, what is the timeframe we're talking
16 about for a lot of this information you are relaying to the members?

17 A [DR. WELNER]. It's during the period of his custody.

18 Q [CAPT EASON]. Dr. Welner, how does all this affect your
19 prognosis of his risk for future dangerousness?

20 A [DR. WELNER]. It's informative. It leaves me with the
21 impression that he is devout, that he is angry, that he identifies
22 with, as I mentioned, his family, which is of a radical jihadist
23 gleaning, that his remorse--that he is not remorseful and that he is

1 not westernized. Although, although, he is very articulate and he is
2 very smooth in his interactions with a variety of people. If we were
3 sitting here in Kabul I suspect that he would be one of the most
4 comfortable people in the room around that population. So he adapts
5 quite well.

6 Q [CAPT EASON]. And Dr. Welner, there are two groups, his
7 family----

8 A [DR. WELNER]. Hmm.

9 Q [CAPT EASON]. ----and his fellow detainees that you----

10 A [DR. WELNER]. Yes, sir.

11 Q [CAPT EASON]. ----you spoke about earlier as far as whom the
12 accused identifies with. Let's talk about fellow detainees.

13 A [DR. WELNER]. Well, he has been, and actually I had left out
14 one of the people who was--who informed my opinion. That was the
15 deputy commander of JTF and so----

16 Q [CAPT EASON]. Now, Dr. Welner, for the record, I believe
17 that's the JDG.

18 A [DR. WELNER]. JDG.

19 Q [CAPT EASON]: Yes.

20 A [DR. WELNER]. All right, yes, the JDG. And I learned, and he
21 was one of the people who raised this, and I don't believe the only
22 one who mentioned that Mr. Khadr has gotten numerous invitations from
23 blocks to be their leader; that detainees charged with law of war

1 crimes, in many cases who have senior, even political positions, they
2 want Omar Khadr to be their block leader; that he is housed in Camp 4
3 with people who are senior members of the rejectionist and Islamic
4 groups that they were involved in. They are composed. They are
5 polite and they're elder.

6 Several years ago he was visited by a director of Canadian
7 intelligence, in a memo that was leaked into the internet and the--
8 this director made the observation that Omar Khadr was, at least at
9 that point, surrounded by a heavy radical environment of the people
10 around him who were essentially dominating the atmosphere at GTMO and
11 it still is, I mean, essentially the--it is a radical enclave there
12 that really dominates the thinking. But that most importantly, that
13 in the absence of his father, that he was particularly sensitive to
14 what he called pseudo parents, in other words, people who might be
15 older and who might take him under their wing; people who might have
16 bearing, people who might be mature but ideologically people were
17 very hardened and quite belligerent toward the west and he expressed
18 that concern back in 2003 and here we are 7 years later with Omar,
19 the block leader, who leads prayers, that isn't just devout but is
20 asked to lead prayers and he has held in that level of regard. He
21 has, in notes that have been made available to me, instructed other
22 detainees not to talk to any of the guards or interrogators to say,
23 "If you do, if you tell them your story, you'll be executed." This

1 is one of the notes referenced in--that have been provided to me.
2 And at times, while he has been--while he has been a composed and
3 generally observant of the rules, has been very disparaging to
4 translators, interfered with their doing their work, and at times has
5 been openly instigating conflicts with other detainees. Nothing
6 violent, nothing that causes huge disturbances that one might see in
7 other correctional facilities, but clearly collective, clearly part
8 of a group, and clearly demonstrating the capacity to stir other
9 people up even in ways that again are disdainful.

10 He has a stature within the camps that has been recognized
11 by others who have characterized him literally as a rock star; that
12 he is the rock star at GTMO.

13 Q [CAPT EASON]. Your words or someone else's?

14 A [DR. WELNER]. Someone else's words.

15 Q [CAPT EASON]. Okay. Let me ask you about Camp 4, Doctor.
16 You're aware he's in Camp 4, correct?

17 A [DR. WELNER]. Yes, sir.

18 Q [CAPT EASON]. Okay. You're also aware Camp 4 has the most
19 highly compliant detainees.

20 A [DR. WELNER]. Yes, sir.

21 Q [CAPT EASON]. Well, is compliance not tantamount to
22 deradicalized?

23 A [DR. WELNER]. No, it is not.

1 Q [CAPT EASON]. Please explain.

2 A [DR. WELNER]. Radicalized Islam works at its own timetable
3 just because it is a--it is a movement that dreams and at some times
4 actually implements apocalyptic violence doesn't mean that it doesn't
5 have the patience to wait for opportunity. And many people who are
6 housed in Camp 4 have extremely destructive pasts and legacies but
7 they're just smart enough to know to follow the rules, and keep
8 themselves quiet and compliant, and they will have an uneventful
9 incarceration. And so this is an example that's provided for Omar
10 Khadr and it's an example that he follows and so he is well behaved
11 in the custodial environment as are they, but it does not at all
12 speak to their mission; it does not at all speak to their ideology.
13 What it does speak to is that Mr. Khadr, when he chooses, has
14 perfectly good impulse control and in a certain kind of risk of
15 dangerousness assessment that would be relevant. That's not the kind
16 of risk of dangerousness assessment that I'm asked to do here. I did
17 not do a psychopathy checklist. I did not assess whether he is a
18 psychopath or not. He may be, he may not be, but were I to have done
19 that assessment, impulsivity, which is one of the measures of the
20 PCLR, his time in Camp 4 reflects on him as someone who is not
21 impulsive.

22 Q [CAPT EASON]. Please contrast how he interacts with his
23 fellow detainees versus questioners, even mental health professionals

1 and how that informs your analysis for this factor.

2 A [DR. WELNER]. Well, he has not had any kind of conflicts with
3 the other detainees and he has been uniformly disdainful of any
4 mental health professionals that have approached him.

5 I should add that not of a physician's assistants and
6 others providing medical care but certainly mental health
7 professionals.

8 I should note that the quality of documentation from when
9 he did speak to mental health professionals, which was between
10 January and February 2003, was outstanding, outstanding. I see
11 corrections charts from all over the United States and you could--you
12 could take medical and mental health professionals down to GTMO to
13 teach them to chart -- highly professional. So my sense of the
14 interactions between mental health professionals and Omar Khadr was
15 that they were nonjudgmental, that they were open, that they were
16 unusually accessible. I don't know. I really do not know, unless
17 somebody has continuously tried to commit suicide, any correctional
18 facility that I encounter, and again I mentioned, I have exposure to
19 correctional facilities all over United States, where someone is seen
20 day after day after day simply because the mental health professional
21 cares enough about it to see how he was doing and that is exactly
22 what was going on in January 2003; just simply checking up on him.
23 So I'm saying that again, to articulate the quality of mental health

1 compassion he has available to him and contrasting it with his
2 adamant refusal to engage mental health professionals available to
3 him in any way. Although, although, if somebody has been put forward
4 by his defense team, I understand that at least in the case of the
5 psychologist he is not declined any opportunities to me. So I
6 mentioned the translator. I mentioned the mental health
7 professional. There have been confrontations with guards. There's
8 one that's been documented in which there was an African-American
9 guard that he called a whore, and a slave, and a servant, and a bitch
10 but I think that, on occasion, he has had these kind of
11 confrontations and used profanity with guards.

12 I spoke to him about it in our meeting, and again, as is
13 his quality of not taking individual responsibility for even these
14 kinds of things. He said everybody was doing it. He didn't deny it.
15 But he said that he was singled out because he's Omar Khadr so he got
16 blamed for it, and I did not speak to the guard about this. This is
17 just something that I had documented. So but again, let me make this
18 clear, he's not fighting, he's not--you know, he is not throwing
19 feces. Some are and that introduces its own stresses onto the guard
20 population, which does not respond and is very restrained, but he
21 doesn't do that, but he has had these experiences that reflect upon
22 how angry and unapproachable he makes himself.

23 Q [CAPT EASON]. Do you have any data----



20

21 **Questions by the trial counsel, Captain Eason, continued:**

22 Q [CAPT EASON]. Dr. Welner, let's pick up where we left off. I
23 believe you were talking about the factor of whom the accused

1 identifies with----

2 A [DR. WELNER]. Yes.

3 Q [CAPT EASON]. ----in regards to fellow detainees.

4 A [DR. WELNER]. Yes.

5 Q [CAPT EASON]. Please, continue where you left off.

6 A [DR. WELNER]. I had been mentioning in my answer
7 substantively that in my professional opinion that he identified with
8 a radical jihadism of the people that he is in Camp 4 with. Another
9 point to support that conclusion, on two occasions, I believe 2004,
10 most recently in 2009, defense representatives have requested or at
11 least have--not requested, have suggested, proposed, the idea of
12 deradicalization for Mr. Khadr; and again, as recently as 2009. I
13 cannot imagine that the defense would be proposing deradicalization
14 unless his own defense team was of a similar opinion that he was
15 radicalized.

16 Q [CAPT EASON]. Dr. Welner, let's come back to that area in
17 just one second. Let's talk--do you have any data points from
18 January 2010 of this year that informed your opinion on his risk of
19 future dangerousness in regards to who he identified with?

20 A [DR. WELNER]. I did, but I actually wasn't done with the last
21 answer.

22 Q [CAPT EASON]. Okay.

23 A [DR. WELNER]. I'm sorry.

1 Q [CAPT EASON]. Please, go ahead continue then, if you'd like
2 to do that now.

3 A [DR. WELNER]. In a press conference with two individuals who
4 were proposed to be acceptable to Mr. Khadr included an individual in
5 Canada who has already been identified for a quite well-established
6 history of radicalism himself, I mean, who has been publicly noted to
7 make comments as outlandish as, "Barack Obama is a house slave" and
8 just numerous, vituperative anti-West and anti-American comments, and
9 this is the person who is being proposed as one of the
10 deradicalization team in 2009 acceptable to Mr. Khadr.

11 Now, in 2010, to answer your next question----

12 Q [CAPT EASON]. Please.

13 A [DR. WELNER]. ----available declassified records recorded an
14 exchange between Mr. Khadr and another inmate in which this detainee
15 said to him, I'm paraphrasing the quote, "God willing, we will have
16 good news from al Qaeda in Yemen." And so again, that is a data
17 point to me that certainly he is involved in discussions with other
18 detainees, in which a detainee feels comfortable and quite hopeful
19 about what al Qaeda is to produce. I should note that there was some
20 very significant activity around that time attached to Yemen,
21 including Mr. Abdulmutallab, the underwear bomber of Christmas Day.
22 And the access to information from within custody, at that time, is
23 uncertain but that came from Yemen and there were other activities

1 attached to Yemen at that time so, that takes me up to data points
2 that include 2010, and so, that forms the basis of my opinion.

3 Q [CAPT EASON]. Let me summarize this phrase, you said it was
4 someone else's words, not yours, "rock star."

5 A [DR. WELNER]. Yes, sir.

6 Q [CAPT EASON]. What makes him a rock star?

7 A [DR. WELNER]. It isn't one thing; it's many things. First of
8 all, Omar Khadr is and has advertised to others, the son of a very
9 senior member of al Qaeda with many contacts, Ahmed Said Khadr, and
10 whether he was number 4 in al Qaeda or number 5 or number 10; he was
11 ranked somewhere and had a following. And again, as I mentioned
12 before, this is someone who is operating in a war theater, Ahmed Said
13 Khadr was, namely Afghanistan. Couldn't speak Pashto and who was his
14 translator? Omar. And yet, a person who was having the interactions
15 and exchanges that he was during wartime and in the different
16 languages, one of which certainly was Arabic but certainly Pashto,
17 among others, and Farsi, a language that Omar spoke by his indication
18 to me that his father did not.

19 Not only that, in addition, to the pedigree that he has and
20 the royalty that goes with it, Omar Khadr also gets the stardust of
21 being understood by other detainees, to have met and spent time with
22 Usama Bin Laden and his family. And again, it's something that we
23 can relate to as perhaps somebody that we know or might interact, who

1 spent some time and had just at least some acquaintance or perhaps
2 more with our favorite president; and the respect or perhaps the way
3 we might look at them differently. So, just fundamentally, from a
4 standpoint of his pedigree and his background, he already has the
5 stardust of royalty about him.

6 The Joint Intelligence Group, when I asked them for a
7 comparison, they compared it to another detainee who's father is
8 exceptionally wealthy and manages to get a lot of money in to his son
9 and other detainees, and so he's also treated with a certain sense of
10 respect and regard because he has financial bearing.

11 Mr. Khadr has that bearing but moreover, he's murdered; but
12 more than that, he's murdered an American Soldier, which is the
13 ultimate prize in Camp 4. And so he has a credibility. The best
14 analogy that I could have for that is perhaps somebody operating in
15 another sort of closed environment, perhaps a gang in which someone
16 who may have killed a police officer, or someone who might be
17 particularly hated. The level of hatred for American forces, in
18 particular, and the prize that relates to the legacy of having
19 murdered an American Soldier is something that gives Omar Khadr
20 substantial credibility among the other detainees.

21 But again, as I mentioned, it's a matter of many things;
22 it's not just that. He's memorized the Qur'an, which gives him a
23 prestige, and even in our interactions, it's not everybody that

1 memorizes the Qur'an. He leads prayers and so his devoutness is
2 something that's regarded by others; it gathers him a certain amount
3 of respect.

4 But again, that's not all. He's fluent in English; the
5 only one fluent in English. And by virtue of that it puts him in a
6 position to be able to communicate needs to guards. Now, he does
7 advocate. Certainly that contributes to his role as a block leader,
8 but I did ask guards about the way he is with others and what I was
9 told, advised, is that when he does get things like, perhaps an
10 electronic game or something that the guards give him, when asked to
11 share it with the other detainees, his response is, "Let them get
12 their own." So, he looks out for himself even though his language
13 skills enable him to communicate with the guards and to advocate
14 certain things that the other detainees may want.

15 But that's not all. He doesn't just speak English, he's
16 multilingual and so he can bridge numerous peoples, and it also
17 enables him to have more concealed conversations. He doesn't have to
18 speak Arabic. He doesn't have to speak English. He can speak
19 Pashto. So he has that versatility and it is a great skill of his.
20 Apart from that, he's charming. He's very gracious. And one of the
21 things that's really striking about him is how he has attracted more-
22 -he's attracted more attention to Cuba than Fidel. He has a wide
23 awareness of how many NGOs are involved in his case. How many

1 attorneys, how many lawyers, how much attention the other detainees
2 give him regard with the hope that they soak up some of that
3 attention, interest curiosity that the world has in GTMO that he is a
4 conduit to them of these kinds of substantial resources. And not to
5 forget, physically he's bigger than the other guys. He's very good
6 at sports and speaking to the credibility, he was seriously injured
7 and made a dramatic recovery. Physically, he has wounds. He has
8 things that bother him but he has been doing physically well, and
9 again, athletically, everyone can see it who plays basketball and
10 soccer with him, so again, he has that recovered, wounded credibility
11 that also adds.

12 So, putting all of these things together again, just off of
13 the top of my head, these are points that inform my impression that
14 Mr. Khadr really has a significant stature and I can understand why
15 this individual would refer to him as a rock star.

16 Q [CAPT EASON]. Now, one more question about this factor of
17 whom he identifies himself with. How does the information you
18 learned from the JIG director and the senior guards at Camp 4, how
19 does that inform your analysis of whom the accused identifies himself
20 with?

21 A [DR. WELNER]. It's very informative because they have a day-
22 to-day, over time awareness of interactions within the camps, the
23 relationships that people have, the personalities. There's only so

1 much that they know but certainly that they are able to give input
2 about how people relate and the different roles that people assume
3 and the different responsibilities or the different duties that they
4 take on.

5 Q [CAPT EASON]. Can you give us some examples of those people?

6 A [DR. WELNER]. You mean in----

7 Q [CAPT EASON]. That he identifies himself with, fellow
8 detainees?

9 A [DR. WELNER]. You know what, I cannot do that without
10 broaching into a classified area.

11 Q [CAPT EASON]. Okay, Dr. Welner. Let's move along and shift
12 gears. All right, we've spent a lot of time focusing on the
13 accused's past, several other factors. Would you like to add
14 something to that last question?

15 A [DR. WELNER]. No, I think that, you know, the only thing that
16 I can add, in a general comment, is that there is a very high
17 concentration of law of war detainees in Camp 4. And that in order
18 to meet criteria, just for composition, that Camp 4 does include
19 quite a number of people who at other times have been housed in other
20 units because those were times where they were more--more actively
21 militant and belligerent within the camp.

22 Q [CAPT EASON]. Okay, Doctor. Let's go ahead and jump forward
23 now. We talked a lot about his past, his personality, these other

1 factors you've analyzed, in the context of Omar Khadr. Let's talk
2 about his future how that affected your opinion. He's been in
3 Guantanamo for 8 years now.

4 A [DR. WELNER]. Yes.

5 Q [CAPT EASON]. What have you learned from contemporary U.S.
6 correction facilities that informed your opinion to his risk for
7 future dangerousness?

8 A [DR. WELNER]. There's a very serious problem in American
9 correctional--in contemporary American correctional culture with
10 radicalization of Islamic prisoners, and there are many reasons that
11 it's happening but it is widespread. The remedy has not yet been
12 developed in the United States. It's a problem that other countries
13 have been dealing with but in the United States it is a significant
14 problem on the order of five figures; 30/40,000 people converting a
15 year and a high percentage of them adopting a radical interpretation
16 of Islam.

17 Q [CAPT EASON]. How is that significant to Omar Khadr?

18 A [DR. WELNER]. Well, he's been marinating in a radical
19 jihadist community. That--the people that he is around are
20 thoroughly devoted to that ideology; they are bitter and belligerent
21 enemies of the United States, and that's, you know, we just agree to
22 disagree. That's their opinion and that's our opinion but he has
23 been marinating in that. And those are all of the people around him

1 and those are his social influences, particularly important to point
2 out because a number of them are older; that includes people who are
3 statesmanlike, people who may have had significant political
4 positions and enjoyed prestige and/or even people that he may have
5 been associated or related to in earlier activities identified in
6 this case.

7 Q [CAPT EASON]. Deradicalization, please explain that concept
8 to us?

9 A [DR. WELNER]. Okay. Deradicalization involves an effort to
10 change deviant thinking by changing ones' interpretation of the
11 Qur'an. In other words, a religious, intense education from within
12 Islam, not outside Islam, not by a psychiatrist, not by a
13 psychologist, not by a teacher, but by a cleric who knows his stuff,
14 who's in a position to change deviant, destructive thinking, that
15 radical jihadists have perverted Islam with, into something that does
16 not justify terrorism and that does not carry with it an elemental
17 intolerance. So it is essentially the religion changing from within
18 and a deradicalization of a specific individual.

19 Q [CAPT EASON]. What do you mean by "deradicalization from
20 within Islam?"

21 A [DR. WELNER]. Because it's a dialog. It's a learning. It's
22 a learning that a radical adherent undergoes with someone who's
23 devout himself; and he has something to teach, but he has a religion

1 to teach that is based in the Qur'an but is not a disgusting version
2 of it. One in which the Qur'an is a religion of peace, and one in
3 which the Qur'an is a vehicle of tolerance, and one which enables an
4 individual to integrate because what makes radical jihadism radical
5 isn't just because Islamists want to kill Christians and Jews and
6 destroy the Banyan Buddha. It's because they don't tolerate other
7 Muslims who don't think like them. And this is why some of the most
8 aggressive deradicalization programs have originated in the Arab
9 world. The Muslims were killing each other and communities took a
10 position of saying, "Well, we have to do something about this." And
11 yet, the individuals, the radical jihadists who were instigating the
12 killing, killing other Muslims, had to be enrolled in a program that
13 redirects them to say, "You're interpreting the Qur'an wrong." You
14 mean well, but you're interpreting it wrong. And so a lot of energy
15 from within has embraced the power of the Qur'an and it's capability
16 with the individual and redirects somebody to a better learning and
17 interpretation of it.

18 Q [CAPT EASON]. Doctor, how are you familiar with how
19 deradicalization is achieved?

20 A [DR. WELNER]. I have studied, extensively, whatever I can get
21 my hands on from different programs from a variety of different
22 countries. Do you want me to----

23 Q [CAPT EASON]. Please, sir.

1 A [DR. WELNER]. Saudi Arabia, Yemen, Britain, Thailand,
2 Singapore, U.S. sponsored in Iraq. I may have forgotten one or two
3 but those are ones that immediately come to mind.

4 Q [CAPT EASON]. Well, how successful is deradicalization,
5 Doctor?

6 A [DR. WELNER]. It's uneven. There are some programs that have
7 been--that have been recognized for their success. There are some
8 programs that have been recognized for their spectacular failure and
9 for example, I mentioned Abdulmutallab. Abdulmutallab's handler was
10 someone who was actually a former GITMO detainee who went through a
11 Saudi deradicalization program. Well, guess what, he was handling
12 Abdulmutallab and Abdulmutallab showed up here and now this individual
13 is a highly placed figure in al Qaeda in Yemen. So some have had
14 very public failures and yet, I can tell you, as a forensic
15 psychiatrist, sometimes you have failures. It doesn't necessarily
16 define the program.

17 However, there is a very real problem within some of the
18 deradicalization programs of people telling the Sheik what he wants
19 to hear; telling Imam what he wants to hear in order to be released
20 from the programs.

21 The overriding point is that it's been recognized by a
22 number of countries as necessary. It is my professional opinion that
23 it is necessary. There are certain countries in which the protocols

1 are much more established. They have a track-record that they point
2 to, as a scientist and understanding how politics works, I wondered,
3 to some degree, whether the statistics that are provided to the
4 general community, of their success is accurate or not. So there is
5 that distance that government may hold you in less westernized
6 societies from actually getting a sense of what the real data--what
7 their real numbers are.

8 But in principle, a number of these programs are very well
9 thought out, involve a variety of different disciplines, and perhaps
10 what I want to impress upon the members with this is that there's no
11 uniform deradicalization idea; for example, the approach in Saudi
12 Arabia is different from the approach in Yemen. The approach in
13 Singapore has different qualities to it than the approach that the
14 United States has used in Iraq and that has relevance to Omar Khadr.
15 And there has been some cross-pollination between programs where one
16 learns from the other.

17 Q [CAPT EASON]. So to sum up: depends on the program, depends
18 on the individual.

19 A [DR. WELNER]. Yes, sir.

20 Q [CAPT EASON]. Is a deradicalization program important for
21 your consideration of risk for future dangerousness in this case?

22 A [DR. WELNER]. Well, sure.

23 Q [CAPT EASON]. Why, Doctor?

1 A [DR. WELNER]. Well, he's--he's convicted of murder and again,
2 let's keep in mind that a number of the people who are put in
3 deradicalization programs; they haven't even broken the law yet.
4 Their parents put them into deradicalization programs because they're
5 frightened about the direction that their children are taking. So
6 this isn't necessarily something that's connected to the penal system
7 in Saudi Arabia.

8 So he has already been destructive and second of all, he
9 has--he has been trained, he has been part of al Qaeda, he is
10 devoutly religious. I spoke before about the prognostic issues. I
11 spoke before about how he's been 8 years--and again, keep in mind,
12 when I was speaking before about American prisons, and this isn't
13 just American prisons; it's a problem in the Danish prisons and the
14 Europe prisons, which is precisely why the Danish were investing in a
15 program of Dr. Sennels' because they said, "We've got to find a way
16 that we don't have prisons make people worse and so, let's see what
17 we can do in the prisons to make them better." So this isn't just a
18 domestic issue but it happens in American prisons because there are
19 not Imams in the prisons in America that are modern enough and have
20 enough bearing enough to overcome the charismatic radicalized
21 prisoners who dominate the dialog about Islam in American prisons and
22 have an impact on the prisoners there.

23 But again keep in mind, I am referring to environments in

1 which there are mixed religions so any individual, whether he is
2 radical Muslim or whether he's not a radical Muslim, has the
3 opportunity to have some exposure to different people. And Omar
4 Khadr has for 8 years, as I mentioned, been steeped, been marinating
5 in a community of hardened and belligerent radical Islamists.

6 Q [CAPT EASON]. Along those same lines, are you aware whether
7 there's a modern Imam here in Guantanamo Bay Detention Facility,
8 that's here to provide or conduct a deradicalization program?

9 A [DR. WELNER]. No, sir, and I specifically asked Mr. Khadr in
10 our interview, who are his religious influences. And he does not, at
11 least in his responses to me, he does not rely on a religious
12 influence higher than himself. So he's his own influence.

13 Q [CAPT EASON]. Dr. Welner, in the context of the accused,
14 specifically, how did you factor deradicalization into your analysis?

15 A [DR. WELNER]. I contemplated the different features of
16 successful deradicalization programs. It is my professional opinion
17 that he needs it. It is my professional opinion that he has a number
18 of disadvantages however, in benefiting through a deradicalization
19 program. The most significant of it--most significant of these is
20 his family. Successful deradicalization programs hinge on the
21 commitment to the family that says, "We want him deradicalized. We
22 don't want him radicalized. In fact, we will sign to take some
23 ownership of responsibility to make sure that when he's no longer in

1 your program, that he stays deradicalized." And the investment of
2 his family in radical ideology, and the investment of his family and
3 pressure for him to lead them is a tremendous impediment to the
4 benefits that he would draw from the structure of deradicalized
5 programs that work.

6 But let me make something clear. Deradicalization programs
7 are not revolving doors. The program that probably has been the most
8 impressive in what's widely available, and that's Singapore, many
9 people have been discharged from the Singapore program but many
10 people are still there and they have not been discharged. They are
11 participating in the program but the Singapore government does not
12 feel that they are safe enough to be in the community. They are
13 engaging in efforts to deradicalize but again, it's something in
14 which the onus is on the individual, the defendant, not on society.

15 Omar Khadr's perspective, and this is another aspect of
16 this, is, "I shouldn't be here. I shouldn't have been here for a
17 day. It's your fault. Get me out of here. There's nothing wrong
18 with me and there's nothing wrong with my thinking."

19 And the onus in deradicalization programs that work is,
20 you've got to show us that you're deradicalized. You've got to
21 demonstrate that kind of thinking; not through platitudes but through
22 the kind of measures that we as responsible professionals and these
23 are multiple peoples, or I'm sorry, multiple people from multiple

1 disciplines on these teams, have an opportunity to gauge because they
2 see it as a public safety issue. They don't put jihadists on
3 deradicalization teams. They put people on, and yet at the same
4 time, they don't put people on these teams who don't know the Qur'an.
5 They put people on who are scholars; people that an individual, a
6 radicalized jihadist can have an eyelevel conversation of spiritual
7 substance about, because that is the only way you're going to
8 redirect deviant thinking.

9 In fact, one of the intriguing programs is in Indonesia
10 where the head Imam is actually a former terrorist and you might
11 think, "Who better than to look you in the eye and say, 'You know
12 something? Don't talk to me about how many people you've killed.
13 I've killed more people than you. This is wrong.'"

14 And to some degree, that may be necessary because this
15 individual is a man who keeps his own counsel. He's fired attorneys.
16 He makes his own mind up. He goes to his own tune. He is his own
17 spiritual guide. Who has the power to penetrate that? Who has the
18 power to penetrate his grand idea of himself and his lack of needs?
19 And perhaps it is someone who's gone on that path but these
20 individuals are in very short supply and this, to some degree, leads
21 us to the very conflict that we're in.

22 Q [CAPT EASON]. Let's talk about that. The accused's words you
23 just said, "Get me out of here." Are you aware of ultimately where

1 he wants to go and how does that factor into this deradicalization
2 analysis and informs your opinion?

3 A [DR. WELNER]. Well, I did ask him about where he would prefer
4 to go even though there has been tremendous--or tremendous--there's
5 been considerable attention about his stated wishes in the past to go
6 to Canada. So I suppose that it is of no surprise to you that I
7 would tell you that when we met he told me that he'd prefer to go to
8 Canada and I raised as options, you know, "How would you feel about
9 being in Afghanistan? How would you feel about being in Pakistan?"
10 and actually even in a religious context as well. And I was left
11 with the impression that he wants to go to Canada. He says. "There's
12 really nothing left for me in Afghanistan or Pakistan. My family is
13 now here and that's where I prefer to go." There are no
14 deradicalization programs in Canada. There are individuals, as I
15 mentioned, the person that I had referred to earlier who are radicals
16 who offer to provide some sort of cosmetic shroud over people who are
17 radical jihadists that they can kind of spirit behind a curtain and
18 then "poof" the--a pathology goes away. And there are individuals
19 who are moderate, by reputation, Imams who have expressed an interest
20 in this but it has not developed to any degree of a program, not only
21 a program that can deal with some of the impediments that I have laid
22 out, that are unique to Mr. Khadr, but a program that can even deal
23 with, you know, just an individual who just sort of is misguided and

1 loses their way. The best analogy that I can give is, if I had a
2 fungating tumor wrapped around an artery, I would want to go to a
3 senior surgeon. All right? Now, I could go to somebody who's right
4 out of his residency and say, "Will you please perform this complex
5 surgery? And oh by the way, if you nick an artery, I'm in deep
6 soup." But you know what? I'd rather go that experienced surgeon.
7 Now, experienced surgeons in this regard are in short supply and he
8 has a tumor around his artery. He has a number of things that people
9 who have been successful in deradicalization programs do not have.
10 He has a family that is not only jihadist but is invested, not only
11 in his jihadism, but his leading them because others can't.

12 And so with those disadvantages, what's going to be the
13 countervailing force? It's going to have to be somebody of
14 considerable integrity, not to mention, that he is an Imam who has to
15 contend with being shouted down by people who call him an apostate,
16 and he's a traitor, and he gets his own death threats from his own
17 communities.

18 So this illustrates what goes on in prisons in the United
19 States. You have a well meaning Imam comes in, wants to teach people
20 the Qur'an and some charismatic, malevolent individual who, you know,
21 next month will be outside a recruiting center living in Little Rock
22 shooting it up, who shouts him down and who frightens him off. So
23 this is the state of affairs and so it's an issue of potential. It

1 is an issue of necessity but I will not lie to this panel and tell
2 you, "Oh if we just put him in a deradicalization program we can all
3 live happily ever after." I think there are meaningful challenges
4 that have to be acknowledged and I could probably speak about this
5 for another half hour if I just went through all of the different
6 qualities of deradicalization programs and Mr. Khadr in particular.

7 TC [CAPT EASON]: Your Honor?

8 MJ [COL PARRISH]: You've got 15 minutes left.

9 TC [CAPT EASON]: We've got 15 minutes left, sir.

10 Let me ask you this question and then we'll come back to
11 that.

12 I think we could break--come at that tomorrow, sir.

13 MJ [COL PARRISH]: I'm not asking a question. I just said you
14 had about 15 minutes left today.

15 TC [CAPT EASON]: Yes, Your Honor, I was just thinking of it as
16 a good breaking point. I think that may be a good breaking point,
17 sir, but I'll follow-up with a couple questions and then we'll, I
18 think we'll probably break before 5 o'clock. I it would make more
19 sense with the direct examination I do have left, Your Honor. If
20 that's okay with the court. Yes, sir.

21 MJ [COL PARRISH]: Works for me. Ask the question, please.

22 Q [CAPT EASON]. Dr. Welner, what about sending him to say, a
23 university in Canada? Would that be a sufficient alternative to a

1 deradicalization program?

2 A [DR. WELNER]. Well, Khalid Sheik Mohammed went to North
3 Carolina A&T, you know. Omar Khadr's daddy got an electrical
4 engineering degree. You know, there are very--there are many people
5 who are well educated. And again, look, radical jihadism isn't a
6 mental disorder. It's not dementia. He's very clear headed. He's
7 very clear thinking. It's a passion. Now, it's a passion that can
8 co-exist with education and so anybody would benefit from going to
9 school. I think he'll derive far more benefit from going to school
10 than reading Harry Potter books. And certainly it will make him more
11 employable and to the degree that he concentrates on his studies it
12 will be a distraction of sorts, but that's all that it is, it is a
13 momentary distraction from something that is--that is a core,
14 passionate belief -- he killed. He killed in the furtherance of
15 being a martyr. That says something about the meaning of this to
16 him. It means something to him and so, certainly something that
17 enhances his skills is a good thing, it's a nice thing and--but again
18 we're talking about something that--that is a--a matter of deviant
19 thinking, deviant behavior.

20 It dominates his life and you know something? Let me make
21 something clear. There's a variance of thought within the behavioral
22 sciences. My personal belief is that spirituality is a great thing.
23 People who believe in a higher power can do great things. People who

1 are Muslim, who follow a guide that moves them toward peace and
2 interactivity and co-existence are all around me in New York. We all
3 get along fine. That's why we all come to New York, But imagine if
4 something intolerant is what dominates one's thinking. I have no
5 issue with religion dominating a person's thinking, but it dominates
6 a destructive person's thinking who is destructive because of its
7 domination and that's why this isn't an educational solution.
8 There's not a psychiatric solution. You could put him on the couch.
9 You could put Woody Allen on the couch and 40 years later, even Woody
10 Allen would progress faster than that. Because it is a spiritual
11 issue; it's not a psychiatric issue.

12 TC [CAPT EASON]. Your Honor, I think right now would be a good
13 breaking point rather----

14 MJ [COL PARRISH]: Okay.

15 TC [CAPT EASON]. ----than continue on.

16 MJ [COL PARRISH]: Members, we are to resume tomorrow at 0900,
17 perhaps a little bit earlier. I know you are coming over on the
18 little boat you have got but, you know, a little before 9 or so. We
19 will see you then.

20 Members, we are in recess.

21 **[The military commission recessed at 1649, 26 October 2010.]**

22 **[The military commission was called to order at 0906, 27 October**
23 **2010.]**

1 MJ [COL PARRISH]: The commission is called to order.

2 All parties are once again present to include the members.
3 Dr. Welner is back on the stand.

4 And, sir, I remind you you're still under oath.

5 Government, you may proceed.

6 ADC [CAPT EASON]: Thank you, Your Honor.

7 **Questions by the assistant trial counsel, Captain Eason, continued:**

8 Q [CAPT EASON]. Good morning, Dr. Welner.

9 A [DR. WELNER]. Morning.

10 Q [CAPT EASON]. Dr. Welner, let's pick up where we left off
11 yesterday. I believe there was--based on your account yesterday, I
12 believe there was one more thing you wanted to add based on why a de-
13 radicalization program is important for your consideration of risk
14 for future dangerousness in this case.

15 A [DR. WELNER]. I--I think I pretty much covered it. We--we
16 can move on, yeah.

17 Q [CAPT EASON]. Okay. Let's--let's move on then.

18 Let's move on to the last factor then in your methodology:
19 recidivism.

20 A [DR. WELNER]. Yes.

21 Q [CAPT EASON]. Let's talk about that. Let's talk about the
22 figures specifically for Guantanamo Bay detainees.

23 A [DR. WELNER]. Publicly-available information about recidivism

1 of Guantanamo detainees looks specifically at people who reengage in
2 hostilities, that's what's measured, people who are captured or
3 killed while actively engaging in--in military hostilities. So as I
4 had mentioned before, what I'm assessing in a case unique to this is
5 that risk of dangerousness encompasses killing, act of violence, or
6 facilitating either through transfer of money directly for violence
7 or facilitating purposes of organization of that violence as well, or
8 inspiring it, and inciting it. These recidivism figures relate
9 directly to armed activity in which people were either arrested or
10 killed in the course of doing.

11 In 2008, the first figures available, recidivism rate was
12 somewhere around six percent--six and a half percent. The next
13 figures from early next year had already risen to 10 percent. And by
14 late last year, those figures had risen to 20 percent. So the most
15 recent figures that have been released from late 2009--end of 2009--
16 late 2009 were 20 percent. And--and it's 20 percent reengagement
17 rate.

18 Q [CAPT EASON]. Well, Doctor, what trend, if any, exists here
19 with these numbers?

20 A [DR. WELNER]. It's a sharp upward trend. And again, we're
21 now 10 months later.

22 Q [CAPT EASON]. Is there anything out there, Doctor, that would
23 make that number--or percentage, rather, artificially low?

1 A [DR. WELNER]. Absolutely.

2 Q [CAPT EASON]. Please tell us about that.

3 A [DR. WELNER]. Well, first of all, a number of the people who
4 have been released from GTMO were released to other facilities, so
5 they're locked up in Algeria, or Italy, or other countries that have
6 taken GTMO detainees. Well, if you're locked up, you're not given an
7 opportunity to actively reengage on the--in a theater anywhere, be it
8 Iraq, be it Afghanistan.

9 So what's counted in that recidivism rate is--or the
10 reengagement rate is those who've been captured or killed versus
11 those who've been released. But included in that group of people
12 who've been released are people who actually haven't been released
13 because they've been released from Guantanamo, but they're locked up
14 somewhere else. But they count.

15 So if you were to take the rate of those who've reengaged
16 and compare those to people who are out in the community, not locked
17 up, then that rate would be considerably higher. Now, that
18 information isn't publicly available, and I don't have that
19 information. So I don't know how many remain locked up. Some people
20 have since been released. Some people remain locked up. But
21 clearly, recidivism reengagement involves an analysis of people who
22 have the opportunity to actually reoffend.

23 Secondly, people go out, they change their name. When Omar

1 Khadr was first picked up by authorities, he said his name was Farnad
2 Akhbar. And he didn't actually disclose his name as Omar Khadr for
3 really quite some time. He was already in custody for awhile. But
4 somebody could be in Afghanistan, picked up by forces, and say his
5 name is Farnad Akhbar, and there's no means to check and say, "Hey,
6 isn't that the name that Omar Khadr used?" And he could be a person
7 who doesn't exist, or a person who's never been picked up before, or
8 has no Guantanamo history. And there's ample documentation, even
9 from the experience of this case, that that's very common.

10 People also change countries. People move around. Omar
11 Khadr was in Pakistan. He was in Afghanistan. People travel to
12 Iran. People travel to a variety of places in which radical jihadism
13 is interested and is involved in--in perpetrating. Whether it's in
14 places that coalition forces are actively engaged or whether it's
15 Germany to contemplate another airline bombing plot. So people do
16 move around; people do change identities. And--and that is not
17 factored into a reengagement rate.

18 Furthermore, traceability is a little different. We're
19 used to, in North America studies on recidivism, in which you go to a
20 parole officer, or you go to a psychiatrist, or you go--in the case
21 of sex offenders, you have to register, and people are aware of where
22 you are and what you're doing. And there's a certain amount of
23 monitoring in a more developed nation.

1 People who are leaving Guantanamo, very often, are going to
2 locations: Afghanistan, Pakistan, and elsewhere, with absolutely no
3 infrastructure. It's very easy to disappear. And so they may be
4 involved in jihadist activities, but they may be involved in jihadist
5 activities away from any watchful presence. So that also contributes
6 to a figure being particularly low, the traceability factor.

7 Furthermore, recidivism studies traditionally looked at
8 time spans: over 2 years, over 5 years, over 10 years. And we're
9 dealing with a lot of people who have been released and their
10 opportunity to be identified as reengaged is 6 months, a year. And
11 so, how will those figures look at 2 years? How will those figures
12 look at 3 years for those same people, regardless of whether they
13 make a choice down the line to reengage; or are seduced into it by
14 the people around them, their own radical families, or other people
15 who are encouraging them and--with whom identify, or who--they share
16 some of the same passions?

17 So these are all significant factors. And in my
18 professional opinion, part of the reason that the reengagement rate
19 is rising as sharply as it has been, at least as late as 2009, is
20 that the reengagement rate for people who are released from
21 Guantanamo is much higher than it has been reported.

22 Q [CAPT EASON]. So bottom line, Doctor, what are your
23 conclusions regarding the recidivism rate of Guantanamo Bay as it

1 stands right now?

2 A [DR. WELNER]. The only conclusions that I can make are that
3 as of late 2009 it is 20 percent, and that figure is artificially low
4 for the reasons that I've demonstrated, and it is on a sharp upward
5 trend, even irrespective of those factors that I've mentioned.

6 Q [CAPT EASON]. Okay. But let's talk about a slightly
7 different subject in the same area. Have you learned of the
8 recidivism of other populations?

9 A [DR. WELNER]. I have.

10 Q [CAPT EASON]. How?

11 A [DR. WELNER]. I've had--as I mentioned, I've had several
12 discussions and lengthy meetings with the director of the Joint
13 Intelligence Group here at Guantanamo posing a number of different
14 questions about Mr. Khadr, also about recidivism and how it's
15 measured. And to the extent that there are--there's documentation
16 that I've shared with you that I have to the extent that there's
17 information that I cannot rely upon, I can get educated from someone
18 who actually has closer access to that data.

19 And the director of the Joint Intelligence Group--I asked
20 him, "What is the reengagement rate yet identified of people who came
21 to Guantanamo before they were 18; people who came here from a
22 teenage population?" And the figures to date are that 17 have been
23 released from Guantanamo, and already 7 have been identified as

1 actively reengaging in hostilities. In other words, they've been
2 picked up for military activities or actually killed in action. And
3 that is a recidivism rate of over 40 percent. And again, all of the
4 factors that I mentioned before.

5 And when Omar Khadr was 15, he was using the name Farnad
6 Akhbar. So it's not something that adolescents who are not trained
7 in al Qaeda, who are familiar with their methodologies, they can't do
8 the same. They can move around. Omar Khadr was in a number of
9 countries. He traveled as well. So the traveling, the traceability,
10 the--the continued incarceration, all of those things apply.

11 So it is over 40 percent, and again, in my professional
12 opinion, invariably higher than that.

13 Q [CAPT EASON]. Okay. Dr. Welner, what data, if any, did you
14 find regarding detainees who are more cultured, and more educated,
15 experienced with the West? How did that affect your conclusions?

16 A [DR. WELNER]. The--the analysis of datas--I specifically
17 asked about--about subpopulations within the GTMO population, and the
18 director of Joint Intelligence advised me that those from populations
19 that have more contact with the West, and those individuals who have
20 themselves been in the West, who are radical jihadists, have more
21 belligerence toward America and the West than those from other
22 populations that have had very little contact, very little culture,
23 very little education.

1 And elaborating on this, speaking about certain populations
2 maybe from Pakistan, people's greatest animosity and antagonism is
3 perhaps over Kashmir, toward India, toward rival tribals. And they
4 really don't care about the United States. They're indifferent to
5 it. It is people who have been exposed to the West, who are part of
6 the West, and yet at the same time adopt radical jihadism as an
7 ideology that direct their belligerence toward the West.

8 And, of course, there are ample examples of this. I--I
9 mentioned them yesterday. How many people have been--been educated
10 here in the United States and yet have become quite notorious in
11 their destructiveness, from Khalid Sheikh Mohammed on down? But--but
12 this is part of what they have seen in terms of their own analysis of
13 their subpopulations at Guantanamo.

14 Another point to raise with respect to recidivism is I
15 spoke yesterday about the radicalization--the de-radicalization--the
16 de-radicalization programs. And the de-radicalization programs give
17 their own data about their reengagement recidivism rates. And one
18 program in particular, the Saudi program----

19 Q [CAPT EASON]. Now, Dr. Welner, let me stop right there.
20 Before we get to that, let me ask you one follow-up question about
21 your previous point.

22 A [DR. WELNER]. Okay.

23 Q [CAPT EASON]. The point you just made about exposure to the

1 West, culture, education; how is that relevant and why is it relevant
2 to the accused in this case?

3 A [DR. WELNER]. Well, it's relevant because Omar Khadr, outside
4 of the combat theater, has had exposure to the West. And he--there's
5 a question of how Westernized he is. But--but when I speak to the
6 idea of Westernized, what I'm referring to are Western values, not
7 whether somebody has been in a particular place. But he's certainly
8 been exposed to the West, not only through his earlier years but
9 through the communications that he has had with his family and their
10 reactions to the West around them, to life in Canada, to how
11 Canadians are. So it--it's an environment that's certainly a frame
12 of reference for him, and it was a frame of reference for him when
13 his father, Ahmad Said Khadr, was lecturing and was very active in
14 the community and was possessed of a radical jihadist mindset,
15 politically as well.

16 In other words, that--that Islam was not just a religion
17 but--but a force of political supremacy that laws should be based on
18 Sharia and that the laws of the state needed to submit to Sharia. So
19 he concerned himself, not with France; he concerned himself with his
20 native Canada.

21 Q [CAPT EASON]. Now, let's go back to the point you were about
22 to get into. How does the risk of recidivism of those from
23 Guantanamo compare to other radical Islamists?

1 A [DR. WELNER]. In the Saudi program of de-radicalization, they
2 have officially given their statistics as somewhere between 10 and 15
3 percent, and that's a--those are statistics based on people who are
4 not violent. People who commit violent acts, people who have
5 murdered, people who do not have the full support of their family to
6 de-radicalize would not be allowed by the Saudis to proceed into the
7 de-radicalization program. And so, Mr. Khadr would not be eligible
8 for the same criteria that they give.

9 But when you look at the young people who, perhaps, are
10 drawn in by radical imams, start speaking within their families about
11 what they want to do and how they want to go here and they want to go
12 there and participate in--in violent conflict, and their parents get
13 them involved because they say, "This is not the direction that we
14 want you." Their--their recidivism rate has been listed at somewhere
15 between 10 and 15 percent. However, they have had the opportunity to
16 take a number of GTMO detainees who were transferred from GTMO into
17 the Saudi de-radicalization program, and according to Prince Naif,
18 who is the--who is the--the head of the government of this de-
19 radicalization initiative, the recidivism rate among Guantanamo
20 detainees is much higher. And in his experience, the words that he
21 used was that the Guantanamo detainees infected, that's the word that
22 he used, "infected." Prince Naif said that they infected other
23 participants in the Saudi program and drew them into radical jihadism

1 and contributed to their increased recidivism.

2 Q [CAPT EASON]. Doctor, let's--let's shift to--to wrapping this
3 up. Source materials; if you could please, we've talked about a lot
4 of materials here----

5 A [DR. WELNER]. Yeah.

6 Q [CAPT EASON]. ----and you've referenced a lot of different
7 things; could you please just describe your source materials you
8 relied on for your opinion here today?

9 A [DR. WELNER]. Yeah. I--I have relied upon, in my work on
10 this case, over 150 source materials. With respect to addressing
11 these questions of--of risk of dangerousness in radical Islamists, I
12 relied upon over 30 academic sources and that is putting aside any
13 public record. But in addition to that, a number of that core group
14 of well over a hundred non-literature non-academic, just source
15 materials from this case, have informed my opinion. And they range
16 from the discussions that I had told you about, in addition to Mr.
17 Khadr, but discussions that I had with a number of personnel here at
18 Guantanamo Bay, whether they be, as I mentioned, a number of--of
19 hours spent with the director of the Joint Intelligence Group and at
20 least four analysts, senior intelligence analysts, with the JDG
21 deputy commander who gave me an extensive tour of the camp and who
22 fielded a lot of my questions about some of the fine points and
23 subtleties and distinctions in different inmates--or detainees and

1 their interactions, and Mr. Khadr and how he was regarded by others
2 in the camp.

3 By the way, I would point out that the--the distinction,
4 just so that there's no confusion, the distinction "rock star," it
5 didn't come from me, that came from him. You know, that was actually
6 the first thing he said. I said, "What's your--what's been your
7 experience with Mr. Khadr?" And he [snapped fingers] matter-of-
8 factly answered, "He's a rock star." That's--that's--that was his--
9 that was the first thing that he said to me. So I want to
10 differentiate that from things that I have distinguished.

11 But pointing--going forward with that, I--I drew
12 information directly from his family, not from media sources. And I--
13 -I typically deemphasize what is written in the media because it is
14 often editorialized by one perspective or another. It was videotape
15 quotations, of people actually being interviewed on camera, much as
16 one would be interviewed on camera by not only myself but Dr.
17 Hopewell, whom I need to mention as well. But these were--the quotes
18 that I had attributed--direct quotes were direct quotes from what
19 people were actually saying on camera, and I was in a position to
20 watch.

21 With respect to other interviews and--and videotapes, Dr.
22 Hopewell is a psychologist who has been consulted by the prosecution,
23 who has tremendous experience in working in the combat setting as

1 working----

2 ADC [MAJ SCHWARTZ]: Your Honor, I--I'm going to object to the
3 bolstering of another potential witness by this witness.

4 MJ [COL PARRISH]: Counsel?

5 ATC [CAPT EASON]: Your Honor, I believe he's just generally
6 describing the source material that he used to coming to his opinion.
7 I think he can just use----

8 MJ [COL PARRISH]: He may describe the source material, but he
9 may not explain what Dr. Hopewell's opinion is on this.

10 ATC [CAPT EASON]: Yes, sir. No problem.

11 MJ [COL PARRISH]: Okay.

12 WIT [DR. WELNER]: Okay. Dr. Hopewell interviewed Mr. Khadr.
13 It's a videotaped interview. Again, having the benefit of the entire
14 transcript of what was asked, what was said, in addition to that of
15 my own, whatever notes might have been generated from defense witness
16 interviews; I reviewed whatever was given to me, whatever I could
17 review. There were notes of interviews that had been conducted by
18 interviewers and interrogators in the early period of his confinement
19 in Bagram and GTMO, and I reviewed all of those notes, and they were
20 quite extensive from a number of different agents. I interviewed
21 personally a number of the people who interviewed and interrogated
22 Mr. Khadr, and--11, 1--I'm just a little concerned about names.

23 Q [CAPT EASON]. Yeah, absolutely, Doctor, use the numbers if

1 you can remember them. If you can't, that's fine.

2 A [DR. WELNER]. 2, 5, and then--then names, including people
3 who have testified at earlier proceedings. So these are people that
4 in addition to reading their records, I interviewed them personally
5 again to try to corroborate, to try to see whether there was a
6 contradiction, to try to reconcile things that I--I could not
7 understand. And that was useful, and that was informative. I
8 mentioned yesterday that--that there was documentation that I simply
9 found by looking on the Internet that had been leaked from Canada.
10 And this included visits from foreign ministry officials, people who
11 had been specifically sent down to check up on Omar Khadr and how he
12 was feeling and whether he was happy and whether he was comfortable
13 there. The--the--they were not so much--they were not so much legal
14 visits as they were sort of social service visits for--for checking
15 up on him. And they were--by comparison to the mental health notes
16 that had been made available to me by defense, they were remarkably
17 detailed in terms of just the amount of content that was in them. I
18 looked--I--I found--or I--I also reviewed, having found released
19 documents from interviews by Canadian intelligence and other foreign
20 ministry officials who sat down with Mr. Khadr, who were not in a
21 social service capacity but who were nevertheless from the foreign
22 ministry and who were engaging him and talking to him. I--I reviewed
23 reports that had been prepared by the mental health witnesses

1 consulting to defense. I reviewed whatever I could find about all
2 media interviews that Dr. Steinberg, who was an expert consulted by
3 the defense. He talked to the media about this case and his
4 experiences with Mr. Khadr; as well as Dr. Xenakis, who had talked to
5 the press and even gave a press conference at some point earlier in
6 these proceedings; as well as Dr. Porterfield, who was also
7 interviewed. So I--I looked at the--and I understand although, that
8 Dr. Xenakis had contributed to a documentary, I didn't have the
9 opportunity to actually look at his specific comments that he gave on
10 raw--you know, on raw footage.

11 Q [CAPT EASON]. Sure.

12 A [DR. WELNER]. I didn't--I believe that I had asked you to get
13 the raw footage, but that wasn't made available to you, so I did what
14 I could to--to get input on the extensive media interviewing by
15 mental health experts that--that had taken place over the years. And
16 I--I reviewed a number of investigative documents, some of which
17 included input about Mr. Khadr from around the time that he was
18 captured. I reviewed notes from inside custody, DIMS notes. I----

19 Q [CAPT EASON]. What do you mean by "DIMS," Doctor?

20 A [DR. WELNER]. You know, I don't know what it stands for.

21 Q [CAPT EASON]. Detainee Information Management System?

22 A [DR. WELNER]. That's good enough for me. I think I've--I've
23 turned into an acronym since I've been--since I've been here. But if

1 I get the acronyms right, then I'm--I'm okay.

2 Q [CAPT EASON]. Please continue.

3 A [DR. WELNER]. But there are DIMs notes, and then separately
4 the medical records. And I know I said this--I know I said this
5 yesterday, but I want to reinforce that the medical records on this
6 case were so extensive, and the people who were documenting their
7 examinations: the doctors, the nurses, the physicians assistants, by
8 comparison to corrections environments that I work in, the
9 documentation was so far superior and--and enabled my being informed
10 about Omar Khadr's progress as well as his state of mind, as well as
11 his emotions, as well as his priorities and things that were
12 important to him, for a period spanning the beginning of his time
13 here at GTMO and up to--and up to the last point of my notes, which
14 would have been--the last point of the notes that I reviewed, which
15 would have been earlier this year. So they were really quite
16 detailed, and I understand that structurally those notes are kept
17 separate from other people--other agencies, and so that gives the
18 medical professionals the opportunity to just see a patient, take a
19 complaint, document what they see, treat as need be, and
20 consistently, and in a way that--that--that was reflective of a
21 traditional American hospital, putting aside corrections. What I
22 experienced was a review of progress of Mr. Khadr, a variety of
23 different concerns, whether they be athlete's foot or dandruff, but--

1 but the point being ongoing monitoring of--of him and as detailed in
2 a way and completely detached from the nature of his being here that--
3 -that it would be indistinguishable from a civilian American
4 hospital.

5 Putting that aside, I also had an opportunity to review a
6 number of motions that had been filed on the case, a number of
7 letters that were attributed to Mr. Khadr, and--and other information
8 that as part of the documented file of this case, that I had--that I
9 had the classification access to.

10 Q [CAPT EASON]. Dr. Welner, I have three more questions for
11 you. Please tell the members----

12 A [DR. WELNER]. And that's a partial list.

13 Q [CAPT EASON]. I understand. It's a long list.

14 A [DR. WELNER]. I'm doing the best that I can, but I'd like the
15 members to know that I reviewed everything that I could get my hands
16 on that I specifically--and in accordance with the original terms of
17 my agreement, I went back to prosecutors and I asked them, "Please
18 get me this. Please get me this. Please get me this." And that
19 continued even to this day.

20 ATC [CAPT EASON]: I'll vouch for that. What are the positive
21 prognostic----

22 MJ [COL PARRISH]: Counsel----

23 WIT [DR. WELNER]: And did the same thing for the defense.

1 MJ [COL PARRISH]: Counsel, you're not going to vouch----

2 ATC [CAPT EASON]: Yes, sir.

3 MJ [COL PARRISH]: ----for anything.

4 ATC [CAPT EASON]: Yes, sir.

5 Q [CAPT EASON]. I'm not vouching. I have three final questions
6 for you, Dr. Welner. But, first, what are the positive prognostic
7 factors, in your professional opinion, for a reduced risk for future
8 dangerousness for Omar Khadr?

9 A [DR. WELNER]. Well, he's physically resilient. And he was
10 very seriously wounded, and he made a remarkable recovery. So he's
11 strong. He is athletic. He takes good care of himself. And so,
12 he's physically--has strong constitution and is quite resilient. He
13 doesn't have to worry about the effects of long-term injuries that
14 sometimes get in the way of one's best intentions in terms of their
15 psychological development. He has scars, no doubt, in a physical
16 sense. But he manages physically with them quite well. And in terms
17 of other medical conditions that he has, they do not cause him any
18 kind of serious impediment. And sometimes people who have been
19 incarcerated, they may develop medical conditions in the course of
20 their incarceration, so that's not something, in my experience, to be
21 taken for granted.

22 Secondly, he is socially agile. I think that with the--
23 with the testimony that I gave yesterday, it--it may give you the

1 impression that when I speak of the detainees and when I speak about
2 them as--as radical jihadists, there's just this homogeneous radical
3 jihadist, but--but in truth, in the camps, people come from all over.
4 And people may have nothing in common, other than their radical
5 jihadism as something that--that brings them together, whether it's
6 from--from the--the--whether it's from Europe; or Chechnya, Russia;
7 or--or AFPAC, we're talking about a population that's much more
8 global than one appreciates.

9 And--and I think it first hit me in face when I went down
10 to the camps and--and actually saw diversity in appearance that was
11 even more than I expected. I just figured that I would see a
12 composition of some people who are Arab, and some people who are
13 African. And--and if you look closely, you could see a real
14 diversity. And Omar Khadr is socially agile. He's--he's--he is
15 comfortable with a number of people in a number of settings. And he--
16 -in that sense, he handles himself well. And--and I--I experienced
17 him as street smart. And I think he was that way before he came in,
18 just from what I learned from him from our interview. Again, as he
19 articulated to me from early on, he was exposed to a number of
20 people, not only because they were spending time in Peshawar, but
21 because, generally speaking, his father was very active with many
22 people in efforts that were both humanitarian and not humanitarian.
23 And even socially, just being in an environment where many people

1 came from many other places as--as he described Peshawar to me. Omar
2 developed that kind of comfort zone with--with the unfamiliar.

3 And--and as I mentioned before, he's fluent in four
4 languages. And--and certainly, that's an advantage. It opens doors.
5 It builds bridges to people. And it is a positive. And if he--if he
6 can use his physical strength, if he can use his social agility, if
7 he can use his fluency, if he can use his street smarts, these are
8 possible prognostic factors, in my professional experience.

9 And reaching back to what I mentioned before, that is based
10 on the experiences that I have in terms of doing clinical assessment
11 of risk of violence, clinical assessment of recidivism, clinical
12 assessment of future prognosis in people who have been incarcerated,
13 as well as some of the factors here.

14 Q [CAPT EASON]. Okay. Let's go to the other side of the coin.
15 What are the poor prognostic factors for an increased risk for future
16 dangerousness for the accused?

17 A [DR. WELNER]. Well, he is al Qaeda royalty. And--and that is
18 a--a powerful impact for someone to work with over the course of
19 their life. There--there are people who, with their royalty and with
20 their pedigree, respond to the self-esteem that comes with that, the
21 encouragement, the respect of people who really value that. I--I'm--
22 that's really the best way that I can describe it. That--that is one
23 of the risk factors that one has to consider.

1 Reaching back to the clinical factors from the incarcerated
2 Muslim youth that Dr. Sennels pointed out, he is devotedly religious.
3 And--and devotedly religious is a particularly relevant risk factor
4 in radical jihadists.

5 Secondly, he is angry. And when I speak of him as being
6 angry, I'm not saying that he is angry all the time. I'm not saying
7 that he's running around ranting and raving. I'm saying that he is
8 resentful. I'm saying that he is alienated. I'm saying that he
9 blames everybody else for his predicament. And invariably when he
10 gets into conflicts with other people, he is--he--he blames them for
11 it.

12 And in the same vein, he does not internalize
13 responsibility. It's always other circumstances. It's other people.
14 It's--it's things that are inconvenient, things that are unfair. But
15 this is a general way of relating to others. That is not only
16 pertinent in terms of the risk assessment and experience of Dr.
17 Sennels, but in the work that I've done in risk assessment among
18 people who were incarcerated, it--it is a--a clinical risk factor
19 that is associated with a poor prognosis, people who just don't take
20 responsibility for their own actions and blame everyone else and are
21 chronically resentful and angry whether they are quiet or not about
22 it in terms of their active fighting.

23 He is--his remorse is shallow. And this gets back to the--

1 one of the factors that I had mentioned before from the Sennels
2 works, that regret--if regret is there, it is a positive prognostic
3 factor. But if it's not there, then it is a problem and it's a
4 problem for Mr. Khadr. He doesn't have any regrets. He says that--
5 that--and he--and that includes not only the murder, but we're also
6 talking about laying the mines and that sort of thing. He does not
7 have regrets for--for his actions.

8 He is closest to a highly-radicalized family that--that
9 reaches out to him, that he feels loyalty to, that he demonstrates
10 loyalty to, and that it would be perfectly understandable for him to
11 demonstrate loyalty to. But that is what he envisions as his future.
12 When I spoke to him in our interview, "Where do you see yourself
13 going?" "Going back to Canada; live with my family." And so, his
14 family, in recent years, in the paths that they have taken
15 ideologically and socially, they're still very integrated. But--but
16 people in the family, one person, as I mentioned, arrested for
17 domestic violence; another person physically disabled; another person
18 has--has just been released on terrorism charges.

19 And as I mentioned about Omar Khadr, he was the favorite.
20 He is the favorite. And the circumstances of his being here are
21 regarded by his family as heroism and something that they are proud
22 of. And so, this risk factor is a risk factor distinguished by de-
23 radicalization programs around the world, that they don't involve

1 people in de-radicalization programs unless the family is a hundred
2 percent behind their being de-radicalized. And Mr. Khadr's family
3 wants him to be radicalized. How--whether they want him to be more
4 radicalized than he is, I don't know exactly how radicalized he is,
5 relevant to them. I can only say that there is a close allegiance,
6 and he identifies with them probably more than he identifies with
7 anyone else at this time. So that is a risk factor that's been
8 distinguished. It's been designated by the de-radicalization efforts
9 and how they are structured.

10 Furthermore, Mr. Khadr's experience in custody and also
11 even in relating to others, right down to his spirituality, that he
12 knows best. That--that--and--and the input I got about the
13 relationship with the chaplain available to him was a social one.
14 But in terms of his spiritual influences, he keeps his own counsel.
15 He knows best. He keeps mental health at a distance. Things that
16 are particularly sensitive to him, if he doesn't want to talk about
17 it, he doesn't talk about it. So to the end that a de-radicalization
18 program requires openness, he's resistant. And that's a poor risk
19 factor.

20 I also want to extend something that I mentioned yesterday
21 near the close. I was talking about this Woody Allen example. I
22 don't want to mislead the members to say that psychotherapy is
23 inappropriate for Omar Khadr. I think for--in my professional

1 experience, and I have extensive experience in working with people
2 who have been incarcerated, who are no longer incarcerated, and who
3 have--and--and who go through adjustment to life as a free person.
4 Counseling is helpful. I believe counseling to--in--in terms of
5 getting used to not being locked up is going to be useful for Mr.
6 Khadr as it would be to anyone else.

7 The point that I was more making was that if anyone
8 believes that counseling is going to transform him from being a
9 radical jihadist into somebody who is a devote Muslim but who is--is
10 one who is not of a radicalist mindset, then that's foolish because
11 it's a spiritual issue.

12 That said, treatment for many is an appropriate option.
13 But again, we also have to consider that Omar Khadr is alienated,
14 mistrustful, and--and has distanced mental health efforts to engage
15 him on particularly painful issues. Nobody, in terms of any notes
16 that I've been provided with, talked to him about his dad's being
17 killed in action, somebody he was so close to and his father was
18 killed. He'll never see his father again. When we spoke about it in
19 our--in our interview, he just says, "I don't deal with it. I don't
20 think about my father. I don't want to talk about it. That's how I
21 deal with things that are distressing to me." And--and I didn't see
22 anything in the notes of defense psychologists that they covered
23 that. There's a question of whether, in the past, he had been

1 sexually abused, well before any hostilities. He wouldn't go there
2 with me. He didn't go there in any of the notes provided by the
3 defense. Whether it happened or whether it didn't, but it was
4 something that he was adamant about not talking about it.

5 Q [CAPT EASON]. Now, how is that a poor prognostic factor,
6 Doctor?

7 A [DR. WELNER]. Well, because--if--if the things that he's
8 sensitive to, and I don't mean things that--that assist his legal
9 case or--or advancing his cause, such as it is to the rest of the
10 world that have been laid out for him in--in documents prepared by
11 other people, but when you talk to him about things that he is
12 sensitive to, if he's unwilling to talk to mental health
13 professionals in Guantanamo, if he's unwilling to talk to mental
14 health professionals, even mental health professionals who are--who
15 are sitting with him for hundreds of hours, such as they--they may
16 have, whatever notes that they generate, well, the--the basis for
17 what distinguishes psychotherapy as a professional exercise as
18 opposed to just a good friend is that someone is able to open and to
19 go deeper. And that--that's just not something that--that he's
20 comfortable with by whatever he has demonstrated. And again, I'm
21 speaking to the issue of de-radicalization and to the extent that
22 when people do make transitions in their lives, for example from
23 being incarcerated to not being incarcerated, that support may be

1 helpful from a mental health source, if he's accessible to it.

2 His psychological testing--and this is something that I'm
3 going to defer to Dr. Hopewell to explain in the context of raw data.
4 His psychological testing does support his being manipulative and his
5 being angry.

6 ADC [MAJ SCHWARTZ]: Your Honor, I'm going to object. I believe
7 this witness didn't conduct the psychological testing and now he's
8 opining about the----

9 ATC [CAPT EASON]: I'll lay a foundation.

10 MJ [COL PARRISH]: Until you lay a foundation, the objection is
11 sustained.

12 ATC [CAPT EASON]: Sure

13 **Questions by the assistant trial counsel, Captain Eason, continued:**

14 Q [CAPT EASON]. Have you reviewed the psychological testing,
15 Dr. Welner?

16 A [DR. WELNER]. I reviewed the findings of the psychological
17 testing.

18 Q [CAPT EASON]. Okay. Are you able to interpret the findings
19 and--and apply that to your professional opinion here?

20 A [DR. WELNER]. I incorporated the findings into my opinion.

21 Q [CAPT EASON]. Okay. Can you please tell us what the findings
22 are, Dr. Welner?

23 A [DR. WELNER]. Dr. Hopewell's analysis of the----

1 ADC [MAJ SCHWARTZ]: Your Honor, I apologize. I'm going to
2 maintain my objection, lack of foundation. He didn't read the raw
3 data. He's not competent to read the raw data. He's relying on the-
4 -the analysis of a witness that he has now said, a couple of times,
5 is planning on testifying. We can hear it from that witness.

6 ATC [CAPT EASON]: I'll ask a follow-up question, Your Honor.

7 MJ [COL PARRISH]: Is Dr. Hopewell testifying?

8 ATC [CAPT EASON]: Dr. Hopewell is testifying, sir.

9 MJ [COL PARRISH]: Then you can wait for Dr. Hopewell to
10 explain.

11 ATC [CAPT EASON]: Yeah. May he not explain it, sir, but at
12 least factor it in? His--may I ask a follow-up question, Your Honor?

13 MJ [COL PARRISH]: You may ask if--I'll listen to the question.

14 ATC [CAPT EASON]: Okay.

15 **Questions by the assistant trial counsel, Captain Eason, continued:**

16 Q [CAPT EASON]. Are the findings of a psychologist you,
17 perhaps, work with in consultation on criminal cases commonly
18 incorporated in your professional opinions, Doctor?

19 A [DR. WELNER]. Oh, absolutely. As a psychiatrist, you don't
20 read the raw data, but you--you ask the psychologist what can they
21 conclude from their tests and that's a data point that informs your--
22 your judgment.

23 Q [CAPT EASON]. So psychological testing is something you

1 commonly rely on in coming to your professional opinions throughout
2 these two hundred and some trials you've been a part of?

3 A [DR. WELNER]. The conclusions.

4 ATC [CAPT EASON]: Yes. Your Honor, may he now proceed and
5 incorporate the conclusions--the find--the findings of the
6 psychological testing now since he commonly relies on that in his
7 expertise?

8 ADC [MAJ SCHWARTZ]: Your Honor, it would be appropriate for him
9 to say he relied on the conclusion but not what the conclusion is.
10 That's the--I mean they're calling this witness to provide not just
11 his conclusion but the raw data, and we'd ask you to require them to
12 call the witness if they want to have their evidence solicited.

13 MJ [COL PARRISH]: Any response from the government?

14 ATC [CAPT EASON]: Well, I'd like--one response, sir, would be
15 that, you know, they have the witness list that we've submitted them.
16 Dr. Hopewell's name is actually not on the witness list. I'm sorry I
17 misstated that earlier.

18 MJ [COL PARRISH]: Oh, you're not calling Dr. Hopewell?

19 ATC [CAPT EASON]: So Dr. Hopewell is not--is not on our witness
20 list for our case-in-chief, Your Honor. That's correct.

21 ADC [MAJ SCHWARTZ]: In that case, this witness has twice stated
22 that Dr. Hopewell is testifying.

23 ATC [CAPT EASON]: And, Your Honor----

1 ADC [MAJ SCHWARTZ]: But we--we would maintain our objection,
2 Your Honor.

3 ATC [CAPT EASON]: Irrespective of that, Your Honor. Dr.
4 Hopewell's name is not on the witness list that was provided to the
5 defense counsel that they've had. And I would also add one thing,
6 Your Honor. If the defense counsel would just cross-examine Dr.
7 Welner on the raw data and his lack of ability to interpret the data,
8 he certainly may do that.

9 MJ [COL PARRISH]: I think under--under Rule of Evidence 703,
10 your objection is overruled.

11 ATC [CAPT EASON]: Thank you, Your Honor.

12 **Questions by the assistant trial counsel, Captain Eason, continued:**

13 Q [CAPT EASON]. Dr. Welner, please continue discussing the
14 psychological conclusions you received from Dr. Hopewell.

15 A [DR. WELNER]. The--the conclusions reflected evidence in the
16 psychological testing of anger and manipulateness.

17 Q [CAPT EASON]. What are the other poor prognostic factors, Dr.
18 Welner?

19 A [DR. WELNER]. The experience that--that Omar Khadr has had
20 from within the family includes a life history of his father being
21 arrested and incarcerated for an embassy bombing in Pakistan,
22 Egyptian Embassy, and having subsequently brought back to Canada
23 where he lived with full deference of the law and no accountability

1 for any actions in Pakistan. The experience of his brother,
2 Abdullah, is that he was picked up in Pakistan, brought to Canada,
3 and rather than released to the United States, he was released in
4 Canada with no accountability. And this is the same brother who said
5 on videotape that he was active in al Qaeda and participating in
6 terrorist activities.

7 And so, the experience that Omar Khadr has is one of a lack
8 of accountability from those two examples. And so, a lack of
9 accountability contributes to a person's perception of deterrence.
10 And so, this, in my professional opinion, is part of what informs an
11 impression of a poor prognosis.

12 And lastly, in addition to the--in addition to the exposure
13 that Omar Khadr had to a senior al Qaeda member, his father, the
14 closeness that they had, whatever training that he received, which he
15 represented as one-on-one training with active militants, after he
16 was incarcerated, input from the interrogators demonstrated that his
17 interaction with them was much more savvy than adults and it
18 reflected a sophistication about the process of interrogation and how
19 to be. This impression was extended by Canadian intelligence and
20 foreign ministry officials, who actually when Omar was in--17 years
21 old, attributed to him in their interactions the use of counter-
22 interrogation measures. So even at that age, he was sophisticated
23 beyond the idea of just knowing that when he's picked up to use an

1 alias and to give a story, a sympathetic story that "No, my father is
2 dead. I don't know where my father is, and he was killed by a
3 landmine," something that would parry questioners and--and get them
4 to stop inquiring.

5 And from that point, of a way back when and progressing
6 through an incarceration which includes here at GTMO and which the
7 records reflect that he interacts with other radical Islamists in a
8 day-to-day way, which may be entirely social but some of those
9 interactions do include passing notes that when guards come they rip
10 them up and flush them down the toilet, and these are things that are
11 actually documented in a camp that has a wide berth of movement and
12 many things can go on unseen and unheard. But one of the things that
13 was heard at the beginning of this year was one of the other
14 detainees telling him, "God willing, al Qaeda will bring us good news
15 from Yemen." So this is part of the dialogue, and it is part of the
16 dialogue that continues to this day.

17 And the--the--the factors that I rely upon are clinical
18 history that's informative in other risk assessment measures;
19 clinical history this is informative of the poor prognostic issues
20 developed in work with Muslims in Western incarcerated populations
21 noted by Dr. Sennels; the available and relevant history that is
22 identified in de-radicalization programs that have specifically
23 addressed this; and knowing, might I underscore, that twice already

1 during this time, his defense team has proposed his being involved
2 in--in a de-radicalization initiative. So that is especially
3 relevant in terms of prognostic factors in considerations where he's
4 concerned.

5 And--and putting all of these together and--and coupling it
6 with a review of records, in my own clinical judgment, it leads me to
7 those conclusions about poor prognostic factors.

8 Q [CAPT EASON]. Now, Dr. Welner, last question for you. I want
9 you to balance the poor prognostic factors with the positive
10 prognostic factors and give us your professional opinion.

11 A [DR. WELNER]. Okay. In my professional opinion, Omar Khadr
12 is a high risk of dangerousness as a radical jihadist.

13 He has murdered, and he has attempted to murder and has
14 done so to this day without remorse for what he did and with an
15 initiative to kill as many as possible.

16 On that alone, in clinical judgment, one can say, according
17 to the literature, that a past history of violence is informative and
18 often predictive of future violence. I would say that in the case
19 Omar Khadr, I'm not so sure.

20 It is my professional opinion that on the basis of his
21 exposure, his sophistication, and what he's learned--what he has
22 learned, he is of far greater value to the jihadist movement as
23 someone who doesn't put his body in the way of a projectile. He is

1 of far greater benefit because, as I have noted before, he is
2 royalty. And he draws a tremendous amount of self-esteem, not only
3 from others around him but his family, which is an important
4 influence.

5 So he has the pedigree. He has the support system. He has
6 the loyalty. He has the communication skills. He has the
7 infrastructure in terms of the foundations that have links to terror
8 that have been setup in Canada that are still thriving and actually
9 have much more global reach.

10 He has the connectivity. For example, in my discussions
11 with the Joint Intelligence Group, the--the director gave me an
12 example of how one of the detainees had the capacity to actually
13 direct a terror attack in an Arab country, which was intercepted. So
14 the idea of people actually being in GTMO and--and cutoff from the
15 rest of world is--is unfounded, by the available information. There
16 is connectivity there, and there is connectivity to the outside.

17 He has the contacts; not only the contacts from his father
18 and the credibility of that, but the contacts of the people that he
19 has been with.

20 He's killed an American Soldier. He has credibility.

21 He has the experience and the exposure to fundraising and
22 getting money and how money is transferred.

23 And so, all of these ingredients together have to be

1 considered with--with--with his personal qualities that he is fluent,
2 that is charismatic, that he has--that he has great support from
3 certain sectors of the news media who lend legitimacy to him. And by
4 virtue of that, he has tremendous infrastructure, tremendous value
5 as, for lack of a better way to put--put it, instant impact on the
6 scalability of what al Qaeda and the radical jihadist movement is
7 capable of in Canada.

8 He's inspiring to others. He's connected to others. He
9 has the infrastructure. He has the support. He has the
10 sophistication. And he has an experience with a lack of deterrence.

11 And so, it is the sum of all of these ingredients that are
12 unique to Omar Khadr which make him highly dangerous.

13 ATC [CAPT EASON]: Thank you very much, Doctor. I pass the
14 witness.

15 MJ [COL PARRISH]: Defense, any objection if we take a 10 or 15-
16 minute comfort break before you begin cross?

17 ADC [MAJ SCHWARTZ]: No, Your Honor.

18 MJ [COL PARRISH]: Okay. Members, about 10 or 15 minutes.

19 We're in recess.

20 **[The military commission recessed at 1000, 27 October 2010.]**

21 **[The military commission was called to order at 1037, 27 October**
22 **2010.]**

23 MJ [COL PARRISH]: The commission is called to order.

1 All parties are present to include the members. And Dr.
2 Welner is on the stand.

3 Defense, you may cross.

4 ADC [MAJ SCHWARTZ]: Thank you, Your Honor.

5 **CROSS-EXAMINATION**

6 **Questions by the assistant defense counsel, Major Schwartz:**

7 Q [MAJ SCHWARTZ]. Dr. Welner, you are the Chairman of the
8 Forensic Panel?

9 A [DR. WELNER]. Yes, sir.

10 Q [MAJ SCHWARTZ]. And that is a panel that has preeminent
11 forensic psychiatrists----

12 A [DR. WELNER]. Yes, sir.

13 Q [MAJ SCHWARTZ]. ----and psychologists, among others?

14 A [DR. WELNER]. It is preeminent professionals in--in what they
15 do.

16 Q [MAJ SCHWARTZ]. And you mentioned Dr. Nancy Slicner from--
17 formerly with the Office of Special Investigations?

18 A [DR. WELNER]. Yes, sir.

19 Q [MAJ SCHWARTZ]. And what is her specialty?

20 A [DR. WELNER]. She's a psychologist.

21 Q [MAJ SCHWARTZ]. Okay. Is she a forensic psychologist?

22 A [DR. WELNER]. She's a forensic psychologist.

23 Q [MAJ SCHWARTZ]. Okay. And----

1 A [DR. WELNER]. And a child psychologist.

2 Q [MAJ SCHWARTZ]. Okay. And who are some of the forensic
3 psychiatrists that you have as part of the forensic panel?

4 A [DR. WELNER]. Dr. Michael First, Dr. John Oldham, Dr. Robert
5 Trestman, Dr. Ryan Finkenbine, Dr. David Walker----

6 Q [MAJ SCHWARTZ]. So there are--there are at least five, and it
7 sounds like perhaps more----

8 A [DR. WELNER]. Dr. Roy Lubit.

9 Q [MAJ SCHWARTZ]. At least six forensic psychiatrists who are a
10 part of the forensic panel in addition to yourself?

11 A [DR. WELNER]. Yes, sir.

12 Q [MAJ SCHWARTZ]. Okay. And what makes your practice unique--
13 the forensic panel unique is that you do peer review. Is that right?

14 A [DR. WELNER]. Yes, sir.

15 Q [MAJ SCHWARTZ]. What is peer review?

16 A [DR. WELNER]. Well, let me just make one--one correction. I
17 think what makes--what makes our practice an advance is that we
18 pioneered peer review. The peer review is actually conducted in the
19 way we do in a number of other places now, but we developed it and
20 put it into place.

21 Q [MAJ SCHWARTZ]. Awesome. What--what is peer review, Doctor?

22 A [DR. WELNER]. Peer review is oversight in the form of--of
23 review of one colleague of the primary examiner's work to ensure that

1 it is objective, to ensure its diligence, and to ensure its adherence
2 to standards of the field.

3 Q [MAJ SCHWARTZ]. Would you agree with this statement, Doctor,
4 that "when an examiner answers to a peer reviewer, the case
5 consultation reflects the discipline and scientific rigor that a
6 court should expect within its cases"?

7 A [DR. WELNER]. Yes, absolutely. I'm sure I said that.

8 Q [MAJ SCHWARTZ]. In fact, you did. That comes from your
9 website at the forensic panel.

10 A [DR. WELNER]. I probably wrote that.

11 Q [MAJ SCHWARTZ]. And so, having written it, I assume you agree
12 with it?

13 A [DR. WELNER]. Sure, I do.

14 Q [MAJ SCHWARTZ]. Okay. And what does peer review contribute
15 to the case?

16 A [DR. WELNER]. You can always learn from colleagues. You
17 know, just as I learned from Dr. Sennels in this case, just as
18 learned from Tom Joscelyn, and just as I learned from people in--in
19 the intelligence apparatus that I am not exposed to. I think when
20 you have an opportunity to get the input of colleagues, you always
21 learn something, and I think it's quite valuable.

22 Q [MAJ SCHWARTZ]. Okay. Is it--would you agree with this
23 statement that "the forensic panel's peer review process provides a

1 system of checks, balances, and more. Oversight is specifically
2 geared to control for any potential bias of the primary examiner, to
3 promote the examiner's heightened diligence to pursue each important
4 clue, and to recognize the clinical significance of information as it
5 surfaces"?

6 A [DR. WELNER]. Yes, sir, absolutely.

7 Q [MAJ SCHWARTZ]. Okay. And again, did you write that?

8 A [DR. WELNER]. I don't know. That doesn't--somehow I can tell
9 things that I write instantly, and I'm not sure whether I wrote that
10 or something, but I certainly agree with it.

11 Q [MAJ SCHWARTZ]. And--and this too comes from your website
12 from the frequently asked questions section?

13 A [DR. WELNER]. It--it may. Again, I--I--I haven't memorized
14 the website. I don't have it in front of me, but if it's on our
15 website, it's an accurate representation of my opinion.

16 Q [MAJ SCHWARTZ]. And this is--so this is a statement then that
17 you agree with?

18 A [DR. WELNER]. Yes, sir.

19 Q [MAJ SCHWARTZ]. Okay. Would you also agree with, "Peer
20 reviewed forensic consultation provides the attorney with the most
21 precise science possible and moves the evaluation to even greater
22 scientific certainty"?

23 A [DR. WELNER]. I agree with that for sure, absolutely.

1 Q [MAJ SCHWARTZ]. Okay. So peer review is important, and
2 that's what makes your practice with the forensic practice, if not
3 unique now, such a--a good practice?

4 A [DR. WELNER]. Well, I mean it's the best practice in the
5 United States. But I think that the peer review absolutely is a part
6 of that.

7 Q [MAJ SCHWARTZ]. Okay. But you're not testifying today in
8 this court as a member of the forensic panel. Is that correct?

9 A [DR. WELNER]. I'm not testifying in--in this court as a
10 person who has gone through the practice of peer review. The panel
11 was retained in this case and some of the cases that we work on we
12 use peer review, and some of the cases we do not for a host of
13 reasons. And one----

14 Q [MAJ SCHWARTZ]. But just----

15 A [DR. WELNER]. And one of----

16 Q [MAJ SCHWARTZ]. I apologize----

17 A [DR. WELNER]. There are many reasons why peer review was not
18 mentioned--or was not reviewed in this case; for example, security
19 clearance, and classification, and the availability of people's
20 schedules. The nature of the questions that were posed to me
21 originally by prosecutors, I was retained on this case at a certain
22 point and the issue that I'm testifying before the jury today, I was
23 asked to address and initiated my work on it at a different point in

1 time; actually, quite recently. So there a number of factors and
2 that applies in--in a number of cases. Sometimes, there are cases
3 brought to the forensic panel in which we cannot utilize peer review.
4 It is always my preference to, but sometimes it's not possible.

5 Q [MAJ SCHWARTZ]. Okay. But in this case, as you are
6 testifying to this jury about this issue, this has not been peer
7 reviewed?

8 A [DR. WELNER]. That's correct.

9 Q [MAJ SCHWARTZ]. Your opinion is that of Dr. Michael Welner
10 and not Dr. Michael Welner after consultation with Nancy Slicner or
11 any of the preeminent forensic psychiatrists that you talked about as
12 part of your practice?

13 A [DR. WELNER]. Well, the--the opinion--the answer is yes, but
14 I need a clarification in order not to create a distorted record for
15 future cases.

16 Q [MAJ SCHWARTZ]. Okay. I'm not interested in future cases,
17 Doctor.

18 A [DR. WELNER]. No, but I can't create a distorted record, sir.
19 And the point is that in the forensic panel, the opinion is always
20 that of the primary examiner. In that sense, it doesn't change. The
21 opinion is not the peer reviewer's. The role of the peer reviewer is
22 oversight to ensure objectivity, to ensure diligence. And there are
23 cases in which a peer reviewer may disagree with the primary

1 examiner. However, their role is not to give a collective opinion.
2 Their role is to provide oversight.

3 Q [MAJ SCHWARTZ]. Okay. And that oversight wasn't performed in
4 this case?

5 A [DR. WELNER]. That's correct.

6 Q [MAJ SCHWARTZ]. That oversight--that measure to make sure
7 that your opinion is objective wasn't given in this case?

8 A [DR. WELNER]. That's correct.

9 Q [MAJ SCHWARTZ]. Okay. Thank you, sir. And this is--fair to
10 say that this is a novel area?

11 A [DR. WELNER]. Yes, sir.

12 Q [MAJ SCHWARTZ]. It's not an area that's been greatly explored
13 before?

14 A [DR. WELNER]. I don't think so. In fact, I--I think that
15 what we're doing here is--is very much at the cutting edge.

16 Q [MAJ SCHWARTZ]. Okay. In fact, this is the first time you've
17 done this type of evaluation with regard to the future dangerousness
18 of a jihadi?

19 A [DR. WELNER]. Of a radical jihadist; that's correct.

20 Q [MAJ SCHWARTZ]. Okay. So it's the first time you've
21 testified regarding this type of situation?

22 A [DR. WELNER]. That's correct.

23 Q [MAJ SCHWARTZ]. And you didn't rely on any other scientific

1 reports because there are none?

2 A [DR. WELNER]. Again, as I mentioned before, I relied on a
3 substantial body of literature that addressed de-radicalization. I
4 relied upon the research of work with incarcerated young Muslim
5 youth----

6 Q [MAJ SCHWARTZ]. That's the----

7 A [DR. WELNER]. ----in a Western society.

8 Q [MAJ SCHWARTZ]. ----Stennis [sic]----

9 A [DR. WELNER]. Sennels.

10 Q [MAJ SCHWARTZ]. Stennels [sic] report?

11 A [DR. WELNER]. And I relied upon information that is available
12 to me through statistical reports issued by the government that
13 informed my understanding of recidivism, and rates, and trends.

14 Q [MAJ SCHWARTZ]. Okay. But there were no prior baselines to
15 look at for whether--to--to base your opinion of future dangerousness
16 for, as you put it, radical jihadis?

17 A [DR. WELNER]. That's correct. I think that, you know, that
18 occasionally comes up. It's something that--that one encounters when
19 doing risk assessment of those recidivating in child pornography and
20 certain other kinds of subpopulations. Sometimes there are questions
21 that are brought for a psychiatrist to answer, and this goes all the
22 way back to the U.S. Supreme Court decision in *Estelle v. Smith* when
23 there was controversy over the role of psychiatry and what was known

1 about risk assessment. And the Supreme Court came back and said, "Do
2 the best you can. We'd like to hear from psychiatrists." And so--so
3 I was asked to contribute and my opinion reflects what I can say
4 about it and I can only say what I can say.

5 Q [MAJ SCHWARTZ]. Okay. So you've done the best you can?

6 A [DR. WELNER]. Yes, sir.

7 Q [MAJ SCHWARTZ]. But you weren't able to rely on any baseline
8 populations?

9 A [DR. WELNER]. That's correct. Yes, sir.

10 Q [MAJ SCHWARTZ]. Okay. And your sample size was Omar Khadr,
11 is that correct, in determining--since you didn't have any baseline
12 populations, you were basically trying to determine what Omar Khadr
13 will do when he gets out?

14 A [DR. WELNER]. The baseline population is released GTMO
15 detainees, and that's a population of over 600. The baseline
16 population includes, in part, those who are in de-radicalization
17 programs for whom statistical available--data is available. And so,
18 those--there is a database--there is a database from which to inform
19 and derive information. The--the data of the Sennels work includes
20 250 individuals. And so----

21 Q [MAJ SCHWARTZ]. I'm sorry. You said----

22 A [DR. WELNER]. 250 individuals.

23 Q [MAJ SCHWARTZ]. From--from the----

1 A [DR. WELNER]. The Sennels work.

2 Q [MAJ SCHWARTZ]. ----Danish study? Okay.

3 A [DR. WELNER]. So----

4 Q [MAJ SCHWARTZ]. And that--and just so I'm clear--and we'll
5 talk about that I'm sure more in a little while, but that's an
6 important piece of your----

7 A [DR. WELNER]. It's a component.

8 Q [MAJ SCHWARTZ]. It's--but it's a large component? Would you-
9 ---

10 A [DR. WELNER]. No, what I would say is it's component. What
11 it does is gives--it gives value to my appreciation for his lack of
12 remorse. And that is a factor that in--if I were to be doing a risk
13 assessment of dangerousness and in a--in a hospitalized individual,
14 in an incarcerated individual, that's a clinical factor that's
15 already been identified. So the precedent for that--if--if I didn't
16 take the initiative that I took here, which is to try to extent this
17 beyond the traditional psychiatric model, a risk of dangerousness in
18 hospitals or incarcerated facilities, it would have been just enough
19 even for me to rely upon that data.

20 But what I chose to do in applying best practices is to
21 give a context of the--specifically the radical jihadist inmate
22 defendant and this is why I reached out to incorporate the Sennels
23 work. However, I want to make it clear for the members that risk of

1 assessment of dangerousness in clinical factors does give weight to
2 an individual's unwillingness to take on personal responsibility and-
3 -and state anger as well as a lack of remorse.

4 So it's not just a factor that sort of floats out of the
5 sky from Dr. Sennels without any previous appreciation in other
6 related realms.

7 Q [MAJ SCHWARTZ]. That's fine. And we'll talk about that study
8 in a few minutes. You interviewed Omar Khadr?

9 A [DR. WELNER]. Yes, sir.

10 Q [MAJ SCHWARTZ]. Okay. But you didn't interview any other
11 GTMO detainees. Is that correct?

12 A [DR. WELNER]. No, sir.

13 Q [MAJ SCHWARTZ]. Nobody in Camp IV?

14 A [DR. WELNER]. No, sir.

15 Q [MAJ SCHWARTZ]. Nobody in any of the other camps?

16 A [DR. WELNER]. No, sir.

17 Q [MAJ SCHWARTZ]. Okay. You didn't use an actuarial measures?

18 A [DR. WELNER]. I did not.

19 Q [MAJ SCHWARTZ]. And there are no tests with the exception
20 perhaps of the Stennis [sic] test? Am I saying that correctly
21 because I seem to get it wrong.

22 A [DR. WELNER]. No, but it--it--he didn't give a test. I mean
23 again----

1 Q [MAJ SCHWARTZ]. Well----

2 A [DR. WELNER]. ----what we were doing is--there was no
3 actuarial--there was no actuarial measure in association with the
4 Sennel [sic] finding.

5 Q [MAJ SCHWARTZ]. I--okay; fair enough. But--and there were no
6 tests that are out there to determine future dangerousness of a--of
7 this population----

8 A [DR. WELNER]. Of a radical jihadist.

9 Q [MAJ SCHWARTZ]. ----that you're looking at? Okay. So there
10 are no tests to determine future dangerousness of a radical jihadist.

11 A [DR. WELNER]. No, sir.

12 Q [MAJ SCHWARTZ]. Is that correct? There are tests on future
13 dangerousness of other populations?

14 A [DR. WELNER]. Yes, sir.

15 Q [MAJ SCHWARTZ]. But you relied on your clinical expertise, is
16 that correct, and your experience in evaluating?

17 A [DR. WELNER]. I relied upon the available clinical data and
18 to the degree that I found that it had relevance to Mr. Khadr. And I
19 relied upon my experience in gathering that data and identifying
20 sources of information which would be informative to me, psychiatric
21 and behavioral indicators that would inform that. My experience
22 enables me to ask questions of this witness or other witnesses to get
23 a better sense about him behaviorally, diagnostically, and to inform

1 some of the factors that I spoke about today, including the factors
2 that emerged from the de-radicalization work, which were also part of
3 my opinion about future dangerousness.

4 Q [MAJ SCHWARTZ]. And--and we'll talk about that a little bit
5 later as well, Doctor. You interviewed Omar Khadr over a 2-day
6 period?

7 A [DR. WELNER]. Yes, sir.

8 Q [MAJ SCHWARTZ]. For about 7 hours?

9 A [DR. WELNER]. 7 to 8 hours.

10 Q [MAJ SCHWARTZ]. 7 to 8 hours. So--and during that time, did
11 you diagnose him--or you didn't diagnose him with a psychiatric
12 condition. Is that correct?

13 A [DR. WELNER]. No, sir, I did not.

14 Q [MAJ SCHWARTZ]. Okay. And the focus of your interview of
15 Omar Khadr wasn't future dangerousness, was it?

16 A [DR. WELNER]. It was not the focus of my interview, but there
17 were aspects that came up within the interview that certainly
18 informed my professional judgment.

19 Q [MAJ SCHWARTZ]. Okay. Let's--let's talk about the--the
20 Sennels test a little bit more.

21 A [DR. WELNER]. The Sennels work.

22 Q [MAJ SCHWARTZ]. Sennels work. And I call it a test because
23 you laid out factors that were--that you derived from that work that

1 laid out your framework. Is that fair to say?

2 A [DR. WELNER]. Well, I mean I have to--I have to work with my
3 frame of reference, but as long as I know what you're talking about,
4 then I'll answer your question----

5 Q [MAJ SCHWARTZ]. Okay.

6 A [DR. WELNER]. ----the best I can.

7 Q [MAJ SCHWARTZ]. One of the ways you've arrived at your
8 opinion regarding Omar Khadr and his risk of future dangerousness is
9 based on this book written by Nicolai Sennels. Is that right?

10 A [DR. WELNER]. Yes, sir.

11 Q [MAJ SCHWARTZ]. And I understand--and I understand you
12 haven't read the book, but based on--based on this book that's
13 written in Danish?

14 A [DR. WELNER]. Yes, sir.

15 Q [MAJ SCHWARTZ]. Okay. And not just the book that you had--
16 that--that he wrote, but a conversation with him as well?

17 A [DR. WELNER]. Well, I can't very well base it on a book that
18 I haven't read.

19 Q [MAJ SCHWARTZ]. Right.

20 A [DR. WELNER]. So it was clearly based on a--an extensive
21 discussion with him and the reason that I chose to have that
22 discussion with him and to learn from him is because I had questions
23 that were--were pertinent to his experience.

1 Q [MAJ SCHWARTZ]. Okay. So did you read any articles about the
2 book?

3 A [DR. WELNER]. Sure. Sure.

4 Q [MAJ SCHWARTZ]. Okay.

5 A [DR. WELNER]. That's how I found out about it.

6 Q [MAJ SCHWARTZ]. You read an article that there was a book.
7 Did you----

8 A [DR. WELNER]. I read----

9 Q [MAJ SCHWARTZ]. ----read any articles----

10 A [DR. WELNER]. I read a couple----

11 Q [MAJ SCHWARTZ]. ----about the book?

12 A [DR. WELNER]. I read a couple of articles, either articles
13 that he had written--well, articles about the book, but articles in
14 which he was--in which he was either extensively quoted or actually
15 wrote the article.

16 Q [MAJ SCHWARTZ]. Okay. And based on reading those documents
17 and talking to him, you found him to be a reliable source of
18 information?

19 A [DR. WELNER]. I approached him as I would any scientific
20 colleague. There--there are times in which I, or any of my
21 colleagues, will read about something, we find it interesting and
22 informative, and we--and we reach out to the individuals because we
23 want to know more. We pose critical questions to them. We have an

1 intense discussion, and we learn what we learn. And we--and we
2 don't--we don't work with what's not relevant to what we're doing.
3 And that's--that's common place in my own practice, and it's
4 certainly standard operating procedure in the forensic panel that we--
5 -that we will see something, maybe it's in the academic literature,
6 maybe it's not, and we may be inspired to pick up the phone and talk
7 more with the person who's behind it.

8 Q [MAJ SCHWARTZ]. So based on what you read about him, you were
9 inspired to pick up the phone and talk more?

10 A [DR. WELNER]. I thought I could learn from him.

11 Q [MAJ SCHWARTZ]. Okay. And you were--I take it you were
12 impressed by him, not just based on the results of his work but based
13 on his trying to help these young men?

14 A [DR. WELNER]. Well, I was impressed him, but what--what
15 inspired me to call him was the patient population that he had worked
16 with. And--and I could see from what he had worked with that I could
17 learn something that related to risk assessment.

18 The second aspect of the inspiration really was more after
19 I spoke to him on the phone. I didn't know about this remediative
20 capacity until I actually talked. That was one of my questions, was,
21 "How did you come to meet these people, and how were they referred to
22 you? And what was the context of your work with them. And please
23 tell me about the dangerous corrections system. And how do you fit

1 in? And how did come to this? What's your background?" Those kinds
2 of things.

3 And then as I mentioned in my earlier testimony, I was
4 impressed with him over the telephone that he was willing to tell me
5 how he failed. And again, that--that's--that's something uncommon
6 and refreshing and maybe European, but it's--it's something that I
7 appreciated.

8 And again, so those--what drew me to him was different from
9 what I was--was impressed by in our--in our telephone discussion.

10 Q [MAJ SCHWARTZ]. But during your conversation, as I--as at
11 least I understood your testimony yesterday, you were also impressed
12 that he was not--that he wasn't an adverse--he wasn't in an
13 adversarial position. He wasn't an expert on the stand.

14 A [DR. WELNER]. That's right.

15 Q [MAJ SCHWARTZ]. He didn't have a slant or a bias. Is that
16 right?

17 A [DR. WELNER]. That's right.

18 Q [MAJ SCHWARTZ]. He was trying to help these young men?

19 A [DR. WELNER]. That's right. That's what he--that was the
20 role that he had played in their lives.

21 Q [MAJ SCHWARTZ]. Okay. And--and so, is it fair to say you
22 respect Mr. Sennels?

23 A [DR. WELNER]. Dr. Sennels?

1 Q [MAJ SCHWARTZ]. Dr. Stennels [sic], whatever----

2 A [DR. WELNER]. I--I respect him as I would respect a
3 colleague, and I respect his efforts to try to help a population that
4 many people don't spend time with.

5 And one of the things that I have to acknowledge and to
6 concede is that whenever you meet someone who actually works to try
7 to help 150--actually 250 people in which he documented, when their
8 work is successful, they're doing a tremendous service to the broader
9 community. So any individual in that position I would have a lot of
10 respect for just by virtue of what he's doing and his experience.

11 Q [MAJ SCHWARTZ]. Now, his work, though, you agree was
12 subjective?

13 A [DR. WELNER]. I don't understand.

14 Q [MAJ SCHWARTZ]. Well, it wasn't a statistical analysis. It
15 wasn't empirical. It was based on his----

16 A [DR. WELNER]. You mean his interpretation of his data?

17 Q [MAJ SCHWARTZ]. His interpretations; that's correct.

18 A [DR. WELNER]. Yes, his interpretations of his data was based
19 on--actually his--his interpretation of his data was just based on
20 his clinical data. But what he reported to me was not a statistical
21 "X number of people had problems with anger in X number of people,"
22 no. And--and--but I--in all fairness to Doctor Sennels, I did not
23 ask him for his numbers. I asked him, "What is most relevant to X?"

1 What is most relevant to Y, and in what way?"

2 Q [MAJ SCHWARTZ]. Okay. So it's--it's fair to say, based on
3 what you've testified that his findings were based on his impressions
4 and his observations?

5 A [DR. WELNER]. His clinical judgment and--and what he elicited
6 from his work as a professional.

7 Q [MAJ SCHWARTZ]. Okay. And so--and you've had time to analyze
8 his methodology, have you not?

9 A [DR. WELNER]. Well, his methodology is he works with patients
10 and he treats them.

11 Q [MAJ SCHWARTZ]. Okay.

12 A [DR. WELNER]. And--and he treats them in a setting in which
13 the patients are provided a number of different social services and--
14 and supports, which is an important aspect of methodology because you
15 have to wonder, "All right. Well, if this treatment doesn't work
16 because of some external social issue or a lack of support otherwise,
17 well, then maybe it's not the treatment and maybe it's just some
18 issue that relates to social services." So as--as part of a
19 methodology, I appreciated that this was a component of--of a larger
20 and government-inspired effort. And so, I--I respected that aspect
21 of it.

22 Q [MAJ SCHWARTZ]. Okay. And you--you clearly respected his
23 results. Is that correct?

1 A [DR. WELNER]. Well, his--his results were informative to me.
2 And--and I--I--I took them at face value. And--and the nature of the
3 question was really, "What do I need to know about this in this
4 regard?" And--and I listened to him, and I've articulated it
5 yesterday and today.

6 Q [MAJ SCHWARTZ]. Based on your hundreds and hundreds of hours
7 that you've worked on this case and all the reading of--that you've
8 done and your conversation with him, you're convinced that his
9 results are valid?

10 A [DR. WELNER]. I'm inclined to. I have no reason not to
11 believe that his results were valid.

12 Q [MAJ SCHWARTZ]. Okay.

13 A [DR. WELNER]. They--and--and let me make this point. I have
14 worked on this case hundreds of hours addressing a number of
15 different questions. With respect to the--the dangerousness
16 assessment, the number of hours that I've put in has no reflection on
17 Dr. Sennels work. But--but I take Dr. Sennels work as he represents
18 it, just as I would a scientific colleague who publishes otherwise.

19 ADC [MAJ SCHWARTZ]: Okay. And, Your Honor, if I could have a
20 paralegal approach to make sure this is up and running. I think it
21 is, but I want to make sure it's on.

22 MJ [COL PARRISH]: Sure.

23 [A defense paralegal approached to assist.]

1 ADC [MAJ SCHWARTZ]: If I can----

2 MJ [COL PARRISH]: I'm sure the Army NCO will square you away.

3 ADC [MAJ SCHWARTZ]: What's that?

4 MJ [COL PARRISH]: I'm sure the Amry NCO will square you away.

5 ADC [MAJ SCHWARTZ]: Somebody should, sir. Somebody should.

6 ATC [CAPT EASON]: Your Honor, I'd like to--we're just receiving
7 Defense Exhibits D, E, F, G, and H. We have not had an opportunity
8 to review these. We just got these right now. If we could just--and
9 they're lengthy documents, if could take a break so the prosecution
10 attorneys can review these, sir.

11 ADC [MAJ SCHWARTZ]: Certainly, before--I'm going to only offer
12 small portions of them.

13 ATC [CAPT EASON]: Well----

14 ADC [MAJ SCHWARTZ]: The witness has testified that he has read
15 articles regarding Doctor Stennels [sic]. I'd like to test the basis
16 of his foundation for relying on his work.

17 ATC [CAPT EASON]: And--and, Your Honor, we have no problem with
18 him doing that, after we at least review his exhibits he's going to
19 use, sir, especially if he intends to introduce them.

20 ADC [MAJ SCHWARTZ]: No problem with----

21 MJ [COL PARRISH]: Are you going to be introducing them?

22 ADC [MAJ SCHWARTZ]: I'm going to try, sir.

23 MJ [COL PARRISH]: Okay. You're going to be offering them, I

1 guess, is the correct word I should use.

2 ADC [MAJ SCHWARTZ]: That's correct, sir.

3 MJ [COL PARRISH]: Okay. Members, give me about 10--15 minutes.

4 Thanks.



—

—

—

—

—

—

█

—

▬

—

—

—



█

—

▬

—

—

—

—

17

3

14

15 And someone ask Dr. Welner to come back in, please.

16 [Dr. Welner entered the courtroom.]

17 MJ [COL PARRISH]: Sir, just please have a seat.

18 [Dr. Welner took a seat at the witness stand.]

19 MJ [COL PARRISH]: Thank you very much, sir.

20 And, Defense, you may proceed.

21 ADC [MAJ SCHWARTZ]: Thank you.

22

[END OF PAGE]

23

1 **Questions by the assistant defense counsel, Major Schwartz,**
2 **continued:**

3 Q [MAJ SCHWARTZ]. Dr. Welner, you mentioned that you had
4 reviewed articles written by Mr. Sennel [sic]. Is that correct?

5 A [DR. WELNER]. I know that I reviewed at least either an
6 article that he wrote or one in which he was quoted extensively. I
7 believe that was my testimony.

8 Q [MAJ SCHWARTZ]. Okay. So you read either one article or
9 something that he was--that he wrote or something that he was quoted?

10 A [DR. WELNER]. I suspect we're saying the same thing.

11 Q [MAJ SCHWARTZ]. Okay. And I'm just confirming that I
12 understand your testimony.

13 A [DR. WELNER]. Yes, sir.

14 ADC [MAJ SCHWARTZ]: Okay. Permission to approach the witness?

15 MJ [COL PARRISH]: Sure.

16 ADC [MAJ SCHWARTZ]: Doctor, I'm handing you what's been marked
17 as Defense Exhibit D, an article----

18 MJ [COL PARRISH]: For identification.

19 ADC [MAJ SCHWARTZ]: For identification; thank you, Your Honor.
20 Which is an article, a seven-page document, dated May 5th, 2010,
21 entitled, "Among Criminal Muslims" from the Frontpage Magazine.

22 [The assistant defense counsel handed the document to the witness.]

23 WIT [DR. WELNER]: Thank you.

1 **Questions by the assistant defense counsel, Major Schwartz,**
2 **continued:**

3 Q [MAJ SCHWARTZ]. Do you recognize that document, sir?

4 A [DR. WELNER]. [Reviewing DE B for ID.] No, but again, for--
5 for everything that I--I read, it may or may not be something that
6 I've read.

7 Q [MAJ SCHWARTZ]. Okay. Well, why don't you take a moment--
8 don't--don't read the entire document, but take a moment and see if
9 you can tell whether or not that's one of the many sources that you
10 reviewed in this case?

11 A [DR. WELNER]. Oh, in terms of what I referenced as sources
12 for this case, with respect to Dr. Sennels, I've already mentioned
13 them. This is not something--I would have known it if I had reviewed
14 it for this case.

15 Q [MAJ SCHWARTZ]. Okay. So you have not reviewed that?

16 A [DR. WELNER]. No, sir.

17 Q [MAJ SCHWARTZ]. Okay.

18 A [DR. WELNER]. I didn't--I didn't count my familiarity with
19 Dr. Sennels work as--as something that I did as part of the
20 references of this case. It was just something that I did for
21 general knowledge; that's all.

22 ADC [MAJ SCHWARTZ]: Okay, great. I'm going to retrieve Defense
23 Exhibit B.

1 WIT [DR. WELNER]: Sure [handing the document to the assistant
2 defense counsel.]

3 ADC [MAJ SCHWARTZ]: I'm now going to hand you what's been
4 marked as Defense Exhibit E for identification. It is a two-page
5 letter entitled, "Open Letter to Prime Minister David Cameron
6 Regarding Turkey," dated 28 July 2010, authored by Nicolai Sennis--
7 Sennels.

8 WIT [DR. WELNER]: Well, I can tell you already that I didn't
9 read it.

10 ADC [MAJ SCHWARTZ]: Excuse me. Your Honor, we're going to
11 object to the characterization. This is not an open letter. This is
12 an article posted on Europe News and with the websites at the bottom.
13 And the previous exhibit was actually a web posting, not an article,
14 as well. We just want to make sure it's characterized properly.

15 MJ [COL PARRISH]: I don't think anyone has been misled in
16 what's--in what's being shown to the witness.

17 You may show it to the witness to see if he has seen it
18 before.

19 WIT [DR. WELNER]: Thank you. Yeah.

20 ADC [MAJ SCHWARTZ]: Yes, Your Honor. I'm handing Defense
21 Exhibit E for identification to the witness [handing the document to
22 the witness.]

23

[END OF PAGE]

1 **Questions by the assistant defense counsel, Major Schwartz,**
2 **continued:**

3 Q [MAJ SCHWARTZ]. Is that--now that you see it in front of you,
4 is that something you reviewed?

5 A [DR. WELNER]. [Reviewing DE E for ID.] I--I know that I
6 didn't read any, "Dear Prime Minister Cameron," books. That's not--
7 or--or articles. So this is not something I'm familiar with.

8 ADC [MAJ SCHWARTZ]: All right. I'm retrieving Defense Exhibit
9 E for identification from the witness [retrieving the document from
10 the witness.]

11 I'm now going to hand the witness what's been marked as
12 Defense Exhibit F for identification. It is a ten-page document
13 entitled, "Muslims and Westerners: The Psychological Differences,"
14 by Nicolai Sennels. And it comes from the website
15 newenglishreview.org.

16 [The assistant defense counsel handed the document to the witness.]

17 WIT [DR. WELNER]: Thank you.

18 **Questions by the assistant defense counsel, Major Schwartz,**
19 **continued:**

20 Q [MAJ SCHWARTZ]. Now, is that one of the documents that you
21 reviewed in formulating your opinion?

22 A [DR. WELNER]. [Reviewing DE F for ID.] I'm pretty sure that-
23 -that part of this I reviewed. I don't recognize--I don't recognize

1 some aspects of it, but I recognize others.

2 Q [MAJ SCHWARTZ]. Okay, great. I'm----

3 A [DR. WELNER]. It looks--it looks like there are a few things
4 here: kind of an introduction, and a background. I think what I'm
5 familiar with more is--and what I believe I recognize is the--is more
6 of the body of this article.

7 Q [MAJ SCHWARTZ]. The portion authored by Sennels?

8 A [DR. WELNER]. Well, there's a picture here, and I don't
9 recognize this picture. I'm assuming that this is Sennels. He looks
10 a little younger than I expected but, you know, again----

11 Q [MAJ SCHWARTZ]. So you weren't aware that he is 33?

12 A [DR. WELNER]. Well, I was 33 once. But I--I wasn't really
13 familiar with his age. And--but more to the point, I just don't--I
14 just don't remember seeing how he looks. That's--I didn't know what
15 he looks like so, clearly, that part of this article is something
16 I've not seen. But----

17 Q [MAJ SCHWARTZ]. The body of it.

18 A [DR. WELNER]. The content is familiar to me and something
19 that I--I feel that, at some point, I may have read.

20 ADC [MAJ SCHWARTZ]: I'm going to retrieve----

21 WIT [DR. WELNER]: Sure [handing the document to the assistant
22 defense counsel.]

23 ADC [MAJ SCHWARTZ]: ----that exhibit from you. And I'm

1 retrieving Defense Exhibit F for identification from the witness.

2 I'm going to hand the witness what's been marked as Defense
3 Exhibit G for identification. It is a three-page document from the
4 Europe--europenews.dk website, entitled, "Danish Psychologist:
5 'Integration of Muslims in Western Societies is not possible,'" dated
6 31 March 2009.

7 [The assistant defense counsel handed the document to the witness.]

8 WIT [DR. WELNER]: Thank you.

9 **Questions by the assistant defense counsel, Major Schwartz,**
10 **continued:**

11 Q [MAJ SCHWARTZ]. Sir, is that a document that you're familiar
12 with?

13 A [DR. WELNER]. [Reviewing DE G for ID.] No, it's not.

14 ADC [MAJ SCHWARTZ]: Okay. I'm going to retrieve the exhibit
15 from the witness.

16 [The witness handed the document back to the assistant defense
17 counsel.]

18 ADC [MAJ SCHWARTZ]: Thank you, sir. I've retrieved Defense
19 Exhibit G for identification from the witness.

20 I'm going to hand the witness Defense Exhibit H for
21 identification. It is a six-page document from the website:
22 www.rightsidenews.com entitled, "Muslims--Muslim Inbreeding: Impacts
23 on Intelligence, Sanity, Health, and Society," authored by Dr.

1 Sennels, dated 11 August 2010.

2 [The assistant defense counsel handed the document to the witness.]

3 **Questions by the assistant defense counsel, Major Schwartz,**
4 **continued:**

5 Q [MAJ SCHWARTZ]. Sir, is that a document you're familiar with?

6 A [DR. WELNER]. [Reviewing DE H for ID.] No. No.

7 ADC [MAJ SCHWARTZ]: Retrieving the exhibit from the witness.

8 And I've retrieved Defense Exhibit H for identification.

9 If I can just have a moment, Your Honor.

10 MJ [COL PARRISH]: Certainly.

11 [The defense counsel conferred.]

12 ADC [MAJ SCHWARTZ]: Permission to publish a quote to the--to
13 the witness and to the jury, from Defense Exhibit F, Your Honor.

14 MJ [COL PARRISH]: You want to ask him if he's--he's familiar
15 with--why don't you first make sure he's actually familiar with the
16 part from which you want to quote? Because he indicated he is
17 familiar with the body of that. Just verify that's something he is
18 familiar with or has reviewed.

19 ADC [MAJ SCHWARTZ]: Yes, Your Honor. If I could just have a
20 moment.

21 MJ [COL PARRISH]: Sure.

22 [The defense counsel conferred.]

23 ADC [MAJ SCHWARTZ]: I apologize for the delay, Your Honor.

1 [The defense counsel conferred.]

2 ADC [MAJ SCHWARTZ]: Your Honor, if I can just have a 5-minute
3 recess. Apparently, in the shift, my--I have become disorganized,
4 and I would like 5 minutes to make sure I'm squared away.

5 MJ [COL PARRISH]: Okay. Just to let you know that we will be
6 taking the lunch recess, much like previous occasions when we've
7 taken a recess, about 1215 until about 1330.

8 ADC [MAJ SCHWARTZ]: That's fine.

9 MJ [COL PARRISH]: So you fit that into it.

10 [The defense counsel made an indication that he had the document.]

11 MJ [COL PARRISH]: Wait a minute.

12 ADC [MAJ SCHWARTZ]: I have it, Your Honor.

13 MJ [COL PARRISH]: Okay, great.

14 [The defense counsel conferred.]

15 ADC [MAJ SCHWARTZ]: You know what? I will take the 5-minute
16 recess, Your Honor, to get myself composed; if I may.

17 MJ [COL PARRISH]: Members, about 5 minutes.

18 **[The military commission recessed at 1145, 27 October 2010.]**

19 **[The military commission was called to order at 1151, 27 October**
20 **2010.]**

21 MJ [COL PARRISH]: The commission is called to order.

22 All parties are once again present to include the members.

23 And Dr. Welner is on the stand.

1 You may continue there, Defense.

2 ADC [MAJ SCHWARTZ]: Thank you, Your Honor.

3 **Questions by the assistant defense counsel, Major Schwartz,**
4 **continued:**

5 Q [MAJ SCHWARTZ]. Dr. Welner, just stepping back for a second,
6 in addition to your review of at least one article either written by
7 Nicolai Sennels and your phone call, did you have any other contact
8 with him?

9 A [DR. WELNER]. I think I wrote an email to him asking him to--
10 to talk to me.

11 Q [MAJ SCHWARTZ]. Okay. Other than that email, did you have
12 any contact with him?

13 A [DR. WELNER]. No.

14 ADC [MAJ SCHWARTZ]: Okay. You mentioned--permission to
15 approach the witness?

16 MJ [COL PARRISH]: Sure.

17 ADC [MAJ SCHWARTZ]: I'm going to hand you what's been marked as
18 Defense Exhibit F for identification.

19 WIT [DR. WELNER]: Yes, sir.

20 ADC [MAJ SCHWARTZ]: I believe you mentioned that you were
21 familiar with this document. Is that correct?

22 WIT [DR. WELNER]: Yes, sir.

23 ADC [MAJ SCHWARTZ]: Okay.

1 [The assistant defense counsel handed DE F for ID to the witness.]

2 WIT [DR. WELNER]: Thank you.

3 ADC [MAJ SCHWARTZ]: And I've handed the witness Defense Exhibit
4 F.

5 **Questions by the assistant defense counsel, Major Schwartz,**
6 **continued:**

7 Q [MAJ SCHWARTZ]. Sir, I draw your attention to page 2 of 10,
8 using the numbering on the top right hand corner. Is that a portion
9 of the article that you had read?

10 A [DR. WELNER]. [Reviewing the document.] Again, I--I think I
11 suggested that I wasn't familiar with this introduction because I
12 didn't recognize seeing a picture. And this looks like a prelude
13 from the--from the--from the author. That I was more familiar with
14 this content below; that's what I had seen. In which I see under
15 kind of----

16 MJ [COL PARRISH]: And would it be fair to say, sir, pages--the
17 bottom of page three----

18 WIT [DR. WELNER]: The bottom of page three; this looks a lot
19 more familiar. The----

20 **Questions by the assistant defense counsel, Major Schwartz,**
21 **continued:**

22 Q [MAJ SCHWARTZ]. Start--starting with which term, sir?

23 A [DR. WELNER]. Starting with anger.

1 Q [MAJ SCHWARTZ]. Okay.

2 A [DR. WELNER]. I think this--I don't know whether this--
3 whether this is from sort of a book jacket or something, but it
4 appears to have some kind of editorial, and comments, and stuff like
5 that. And I'm not familiar with that.

6 ADC [MAJ SCHWARTZ]: Okay. If I could just have one--one
7 moment.

8 MJ [COL PARRISH]: Sure.

9 [The defense counsel conferred.]

10 ADC [MAJ SCHWARTZ]: Your Honor, in light of the fact that the
11 witness hasn't reviewed any of those defense exhibits to include this
12 defense exhibit----

13 MJ [COL PARRISH]: In its entirety.

14 ADC [MAJ SCHWARTZ]: ----in its entirety; yes, sir. We're going
15 to ask that we take lunch, allow the witness to read the articles,
16 and that way we can fully discuss it with him once he has had an
17 opportunity to review it.

18 I would--I would ask Your Honor again to instruct the--that
19 the witness not be talked to by either party while he remains on the
20 stand, even during this.

21 MJ [COL PARRISH]: Okay. Members, I'm going to excuse you, and
22 we'll see you back here at approximately 1330, operative word is
23 "approximately." Enjoy your lunch.

1 BAILIFF: All rise.

2 [All persons did as directed, and the members withdrew from the
3 courtroom.]

4 **[The military commission recessed, and the R.M.C. 803 session came to
5 order at 1155, 27 October 2010.]**

6 MJ [COL PARRISH]: Have a seat, please.

7 [All persons did as directed.]

8 MJ [COL PARRISH]: Okay. All parties are present. Members are
9 absent. Dr. Welner is on the stand.

10 So, Dr. Welner, defense is going to give you some exhibits
11 to read.

12 WIT [DR. WELNER]: Yes, sir.

13 MJ [COL PARRISH]: The ones that you indicated you had--not
14 familiar with. You'll also be able to read the ones that you
15 currently have in your hand, Defense Exhibit F for identification.
16 Read those, and after we come back at lunch at about 1330, defense
17 will continue with examination of you.

18 I ask that counsel allow Dr. Welner some privacy over lunch
19 to read the exhibits. And to be fair to both sides, that both sides
20 not question him during the lunch break so both sides come into this
21 on an even keel during cross-examination and any redirect examination
22 there might be. Okay?

23 With that in mind, we're in recess.

1 [The R.M.C. 803 session recessed at 1156, 27 October 2010.]

2 [The R.M.C. 803 session was called to order at 1329, 27 October
3 2010.]

4 MJ [COL PARRISH]: This commission is called to order. All
5 parties are present as before. The members are absent, and Dr.
6 Welner is on the stand.

7 Before we call the members, a couple of things. Counsel
8 indicated to me there was a VTC scheduled for tomorrow at 09?

9 CTC [MR. GROHARING]: Yes, sir.

10 MJ [COL PARRISH]: Okay. Because--and that person is from
11 Afghanistan, right?

12 CTC [MR. GROHARING]: Correct, sir.

13 MJ [COL PARRISH]: It's probably difficult to reschedule that?

14 CTC [MR. GROHARING]: Very difficult, sir.

15 MJ [COL PARRISH]: Okay. Then we're going to do the VTC at 09.
16 No matter where we are in your case, we'll just stop. And--I think
17 it's a defense witness, right?

18 DC [LTC JACKSON]: That's correct, Your Honor.

19 MJ [COL PARRISH]: We'll just take his out of order just so we
20 don't--I think it would be too difficult to try to change it, right?

21 CTC [MR. GROHARING]: What I can do after we break, sir, is see
22 how much of a window we have on that end, and if--I don't expect his
23 testimony to be very long. If our window is more than--if it's a

1 couple hours, we might be able to slide a witness back.

2 MJ [COL PARRISH]: Okay.

3 CTC [MR. GROHARING]: I don't expect us to have a whole--an
4 awful lot of testimony left tomorrow morning, if--if any. But I'll--
5 we'll check on that, sir.

6 DC [LTC JACKSON]: I'm not going to talk about that.

7 MJ [COL PARRISH]: Yeah. Let's just plan on having it at 09,
8 if--we'll just stop what we're doing and take it.

9 WIT [DR. WELNER]: Your Honor.

10 MJ [COL PARRISH]: Yes, sir?

11 WIT [DR. WELNER]: I apologize, if I may. I believe that the
12 articles that I was looking at lunch, I think I actually left them on
13 the desk, and I suspect that Mr. Schwartz is going to ask me to refer
14 to them directly, so if I may have a minute to two to just grab them.
15 I know where to find them.

16 MJ [COL PARRISH]: Go right ahead.

17 WIT [DR. WELNER]: Thank you, sir.

18 MJ [COL PARRISH]: Go right ahead, sir.

19 WIT [DR. WELNER]: I appreciate it.

20 [The witness withdrew from the courtroom.]

18

19 [The witness returned to the courtroom and took the witness stand.]

20 MJ [COL PARRISH]: And Dr. Welner has returned. Bailiff, please
21 get the members, would you please? Thanks very much.

22 BAILIFF: All rise.

23 [All persons did as directed, and the members entered the courtroom.]

1 MJ [COL PARRISH]: Have a seat, please.

2 [All persons did as directed.]

3 **[The R.M.C. 803 session terminated, and the military commission was**
4 **called to order at 1333, 27 October 2010.]**

5 MJ [COL PARRISH]: The commission is called to order.

6 All parties are once again present to include the members.
7 Dr. Welner is on the stand, still under oath.

8 Defense, you may proceed.

9 ADC [MAJ SCHWARTZ]: Thank you, Your Honor.

10 At this time, I'm going to retrieve from the witness
11 Defense Exhibits [for ID] D through H.

12 WIT [DR. WELNER]: Oh, okay [handing the exhibits to the
13 assistant defense counsel.]

14 ADC [MAJ SCHWARTZ]: I've retrieved Defense Exhibits for
15 identification D through H. And I noticed that the witness has a
16 document which appears to be a list of some sort, if I could ask that
17 that be removed from the witness stand.

18 MJ [COL PARRISH]: Do you need that to testify, Doctor?

19 WIT [DR. WELNER]: I may need it to refresh my recollection. It
20 contains a list of--as I mentioned, there were probably over 150
21 source----

22 MJ [COL PARRISH]: Okay.

23 WIT [DR. WELNER]: ----materials at one point, and I may be

1 asked, "Did you see this? Was this one--part of the sources?"

2 MJ [COL PARRISH]: Okay.

3 WIT [DR. WELNER]: And so that's why I have it.

4 MJ [COL PARRISH]: Okay. How about we put that away for now?

5 WIT [DR. WELNER]: Sure.

6 MJ [COL PARRISH]: And if we need it to refresh, we'll do so.

7 WIT [DR. WELNER]: Thank you, Your Honor.

8 MJ [COL PARRISH]: Thanks. Okay, sure.

9 **Questions by the assistant defense counsel, Major Schwartz,**
10 **continued:**

11 Q [MAJ SCHWARTZ]. Now, Doctor, I gave you five documents to
12 read. Is that correct?

13 A [DR. WELNER]. Yes, sir.

14 Q [MAJ SCHWARTZ]. And did you read them?

15 A [DR. WELNER]. I did.

16 Q [MAJ SCHWARTZ]. Did you read them from cover to cover?

17 A [DR. WELNER]. I read them. They--I may have skimmed over a
18 few words, but I certainly did my best to read all the articles.

19 Q [MAJ SCHWARTZ]. Okay. But you skimmed over them, or did you
20 read him?

21 A [DR. WELNER]. I believe that I answered the question as
22 accurately as I can.

23 ADC [MAJ SCHWARTZ]: Okay.

1 MJ [COL PARRISH]: It'd be fair to say you read the substance of
2 the article, Doctor?

3 WIT [DR. WELNER]: I read the substance of the articles and I'm
4 prepared to discuss them in any way you wish.

5 ADC [MAJ SCHWARTZ]: Excellent.

6 **Questions by the assistant defense counsel, Major Schwartz,**
7 **continued:**

8 Q [MAJ SCHWARTZ]. You're aware that in a document entitled,
9 "Open Letter to Prime Minister or PM David Cameron Regarding Turkey"-
10 ---

11 A [DR. WELNER]. Yes.

12 Q [MAJ SCHWARTZ]. ----that Mr. Sennels said, "Please study the
13 Quran and see what that means. It is a criminal book that forces
14 people to do criminal things." Did you read that?

15 A [DR. WELNER]. I did.

16 Q [MAJ SCHWARTZ]. Okay. In that same document, Mr. Sennels
17 said, "25 to 30 percent of marriages in Turkey are intermarriages.
18 This means that 25 to 30 percent of all Turks are the result of
19 inbreeding. Surely you already know that inbreeding between the
20 cousins doubles the risk of mental and physical handicaps and that
21 Western societies are struggling hard with the economic consequences
22 of handicapped immigrants." Did you read that as well?

23 A [DR. WELNER]. I did.

1 Q [MAJ SCHWARTZ]. Okay. Having read Mr. Sennels' writing, does
2 that impact your conclusions with regard to Omar Khadr?

3 A [DR. WELNER]. Having read these articles, it is my--having
4 read these articles----

5 Q [MAJ SCHWARTZ]. Let's just talk about this article, first,
6 Doctor. Having read this article, does that impact your conclusion
7 regarding Omar Khadr?

8 A [DR. WELNER]. No, it doesn't relate to my conclusions at all.

9 Q [MAJ SCHWARTZ]. It doesn't relate to them at all?

10 A [DR. WELNER]. No.

11 Q [MAJ SCHWARTZ]. Okay. You also read----

12 A [DR. WELNER]. I--it's my understanding that Mr. Khadr----

13 Q [MAJ SCHWARTZ]. Doctor----

14 A [DR. WELNER]. ----is not a product of inbreeding.

15 Q [MAJ SCHWARTZ]. Doctor----

16 A [DR. WELNER]. So, I--I just don't understand--you know, that--
17 -it's not relevant.

18 MJ [COL PARRISH]: Dr. Welner, please just answer the question
19 that's posed. Thank you.

20 **Questions by the assistant defense counsel, Major Schwartz,**
21 **continued:**

22 Q [MAJ SCHWARTZ]. Did--did you also read during the break,
23 Doctor, the article--the document entitled, "Among Criminal Muslims,"

1 which is an interview with Mr. Sennels?

2 A [DR. WELNER]. Yes, I did.

3 Q [MAJ SCHWARTZ]. Okay. And in that document Mr. Sennels
4 states, "When having Muslim clients on my couch, it was, in most
5 cases, like having someone from another planet visiting me." Did--
6 did you read that?

7 A [DR. WELNER]. Yes.

8 Q [MAJ SCHWARTZ]. He went on to say, "The Western world has
9 put--has to put a complete halt to Muslim immigration and non-Western
10 immigrants who did not already have a citizenship." Did you read
11 that?

12 A [DR. WELNER]. I did.

13 Q [MAJ SCHWARTZ]. Did you consider that?

14 A [DR. WELNER]. It doesn't have anything to do with what I'm
15 evaluating.

16 Q [MAJ SCHWARTZ]. Okay. And he also went on to say, "We
17 should, in general, make it so unpleasant and the economic
18 disadvantage so big that the consequences of non-integration would
19 motivate resident Muslims to emigrate, preferably to a Muslim country
20 where they can live in a culture where they already know the
21 language, culture, and religion and do not live under the pressures
22 to integrate and do not feel stigmatized by anti-immigration
23 organizations and Islam critics." Have you read that?

1 A [DR. WELNER]. I did.

2 Q [MAJ SCHWARTZ]. And having read that document, did that alter
3 your opinion with regard to Omar Khadr and his level of future
4 dangerousness?

5 A [DR. WELNER]. No, not at all.

6 Q [MAJ SCHWARTZ]. Not at all?

7 A [DR. WELNER]. No.

8 Q [MAJ SCHWARTZ]. Did you also read the document entitled,
9 "Muslims and Westerners: The Psychological Differences"?

10 A [DR. WELNER]. Yes, I did.

11 Q [MAJ SCHWARTZ]. That too was written by Nicolai Sennels?

12 A [DR. WELNER]. Yes, it was.

13 Q [MAJ SCHWARTZ]. And did you read that he says, "I began to
14 say what everybody already knew, but, what nobody either wanted or
15 dared to say: that those who are referred to as foreign criminals,
16 religious extremists, or terrorists in the making and who are the
17 cause of lawless parallel societies are all Muslims"? Did you read
18 that, Doctor?

19 A [DR. WELNER]. I did.

20 Q [MAJ SCHWARTZ]. Did you consider that?

21 A [DR. WELNER]. I had--I don't know what it had to do with what
22 I was evaluating, other than I was examining someone in--from a camp
23 whose composition is 100 percent Muslim. And by my understanding,

1 100 percent radical Muslim except for different camps within GTMO.

2 Q [MAJ SCHWARTZ]. Did you also read where he said, "We need to
3 understand that it is not possible to integrate masses of Muslims
4 into our Western societies"? Did you read that?

5 A [DR. WELNER]. I did.

6 Q [MAJ SCHWARTZ]. And having read that, did that in any way
7 change your opinion----

8 A [DR. WELNER]. I believe I heard----

9 Q [MAJ SCHWARTZ]. ----with regards to Omar Khadr's future
10 dangerousness?

11 A [DR. WELNER]. No, that's a political comment. I believe I
12 heard Chancellor Angela Merkel say something of the sort probably
13 within the last 2 weeks. It's just a political comment from a
14 political opinion.

15 Q [MAJ SCHWARTZ]. Okay. So that had no impact on your decision
16 with regard to Omar Khadr's future dangerousness?

17 A [DR. WELNER]. I assessed Mr. Khadr for his level of anger----

18 Q [MAJ SCHWARTZ]. Sir, I asked--I asked you a straightforward
19 question. Did this article and that quote impact your ability or
20 your judgment?

21 A [DR. WELNER]. No, it's someone's political opinion that's
22 all.

23 Q [MAJ SCHWARTZ]. Okay, someone's political opinion.

1 Did you also read the document entitled, "Danish
2 Psychologist: 'Integration of Muslims in Western Societies Is Not
3 Possible,'" dated 31 March 2009?

4 A [DR. WELNER]. I did.

5 Q [MAJ SCHWARTZ]. Okay. And did you read where Mr. Sennels
6 said, "We should immediately stop all immigration of people from
7 Muslim countries to Europe until we have proven that integration of
8 Muslims is possible"? Did you read that, Doctor?

9 A [DR. WELNER]. I did.

10 Q [MAJ SCHWARTZ]. And having read that, did that alter your
11 opinion?

12 A [DR. WELNER]. No, not at all.

13 Q [MAJ SCHWARTZ]. Okay. Finally, Doctor, did you read the
14 document entitled, "Muslim Inbreeding: Impacts on Intelligence,
15 Sanity, Health, and Society," dated 11 August 2010, by Mr. Sennels?
16 Did you read that document?

17 A [DR. WELNER]. I did.

18 Q [MAJ SCHWARTZ]. Okay.

19 A [DR. WELNER]. Dr. Sennels.

20 Q [MAJ SCHWARTZ]. Sir, how--first of all, before we get to
21 this, how do you know he's a doctor? What evidence do you have that
22 he's a doctor?

23 A [DR. WELNER]. As much as I know that you're an attorney. By

1 his own self representations, and I'm just affording him the--the
2 respect of his introduction; that's all.

3 Q [MAJ SCHWARTZ]. Okay. In this document, Mr. Sennels says, "A
4 rough estimate shows that close to half of all Muslims in the world
5 are inbred." Do you remember reading that?

6 A [DR. WELNER]. I remembered that he quoted extensively a
7 numbers of statistics from different countries individually below.

8 Q [MAJ SCHWARTZ]. And that-----

9 A [DR. WELNER]. Is that the same article?

10 Q [MAJ SCHWARTZ]. This is from "Muslim Inbreeding: Impacts on
11 Intelligence, Sanity, Health, and Society."

12 A [DR. WELNER]. I--I read the article.

13 Q [MAJ SCHWARTZ]. Okay. And so having read that, did that
14 impact your conclusions with regard to Omar Khadr and his level of
15 future dangerousness?

16 A [DR. WELNER]. No. Again, Mr. Khadr has been assessed
17 extensively, intellectually and has been found to have no evidence of
18 head injury, no evidence of brain damage, no evidence of brain
19 injury, and no evidence of retardation. And certainly that has been
20 my opinion that intellectually, he does not have a brain disease. He
21 does not have a psychiatric diagnosis. And as much as I know about
22 his social history, he's not a product of inbreeding. So it's
23 irrelevant to my appraisal and assessment.

1 Q [MAJ SCHWARTZ]. Dr. Welner, during the course of this hearing
2 as you've testified for a day and a half, you've testified that--that
3 you've relied on the results and the conclusions of Mr. Sennels. Is
4 that correct?

5 A [DR. WELNER]. I--I relied on the research of Dr. Sennels, and
6 having read those articles, I feel more confidence that the research
7 is important, is useful, and I think that the totality of the
8 articles is informative. There are certain political positions that
9 he takes that I agree with. There are certain political positions
10 that he takes that I don't agree with. The political positions are
11 peripheral to the work that he did.

12 He did the work in that article--in those articles as it's
13 represented, just as I--as I had testified earlier, he had an
14 opportunity to sit and work with people that he wanted to help as a
15 psychologist. And did work with them, was motivated in a remediative
16 way, and gained important understandings. And a lot of those
17 articles include significant educational and instructive material
18 that's useful for me to learn. And I suspect I'll share that
19 information with colleagues in the future.

20 Q [MAJ SCHWARTZ]. Of the statements that you've--of the
21 documents you've just read and the statements that you've just
22 referred to----

23 A [DR. WELNER]. Yes.

1 Q [MAJ SCHWARTZ]. ----which ones do you agree with?

2 A [DR. WELNER]. Can you give me the articles, and I'll just
3 read them, because I agree with a significant amount of the content
4 in a number of those articles?

5 Q [MAJ SCHWARTZ]. Of the documents that I've--of the quotes
6 that I read to you, did you agree that the Quran----

7 A [DR. WELNER]. These are political positions.

8 Q [MAJ SCHWARTZ]. ----is an--is an evil book that causes people
9 to do criminal things?

10 A [DR. WELNER]. If I agreed with that, I would not have
11 recommended de-radicalization. For me to recommend de-radicalization
12 is entire----

13 Q [MAJ SCHWARTZ]. Doctor----

14 A [DR. WELNER]. I don't agree with it.

15 Q [MAJ SCHWARTZ]. Doctor, my question----

16 A [DR. WELNER]. It----

17 Q [MAJ SCHWARTZ]. ----it's a yes or no question.

18 A [DR. WELNER]. I--it----

19 Q [MAJ SCHWARTZ]. Of that--on that quote, did you agree that
20 the Quran is an evil book that causes people to do criminal things?

21 A [DR. WELNER]. I agree that people do evil things in the name
22 of the Quran, and that al Qaeda does, and many of the people down
23 here do. That does not make the Quran an evil book. And I have

1 recommended de-radicalization because there are individuals like Mr.
2 Khadr who are radical Islamists, who use the Quran to do evil things.
3 And there are people like Naser Khader, a Muslim Dane, who endorses
4 Dr. Sennels' work, who believes that the Quran is a force of good,
5 and I believe----

6 Q [MAJ SCHWARTZ]. Is this a person-----

7 A [DR. WELNER]. -----as a--as a-----

8 Q [MAJ SCHWARTZ]. Doctor-----

9 A [DR. WELNER]. ----psychiatrist--I'm answering the question---
10 -

11 Q [MAJ SCHWARTZ]. Well, you're not answering the question--but
12 that's-----

13 A [DR. WELNER]. ----that de-radicalization is a vehicle by
14 which Islamic thinking can be redirected when it is perverting the
15 Quran to do good because of the Quran, instead of to do evil.

16 Q [MAJ SCHWARTZ]. Doctor, the name of the person that you just
17 said who--who is the Muslim who agrees with Dr. Sennels, did you do
18 as much research into his beliefs as you did into Mr. Sennels'
19 beliefs?

20 A [DR. WELNER]. Mr. Khadr is a Muslim, that's my point. And--
21 and--and he is--his reaction to the book Among Criminal Muslims was
22 to say that he felt that it should be required reading.

23 Q [MAJ SCHWARTZ]. Did you talk to him on the phone when you

1 determined what his actual----

2 A [DR. WELNER]. No, but my point is-----

3 Q [MAJ SCHWARTZ]. -----opinion--Doctor, I'm asking a question.

4 Did you talk to him on the phone when you determined what
5 his opinion was, or did you read it in an article?

6 A [DR. WELNER]. I read it in an article.

7 Q [MAJ SCHWARTZ]. And that's much of the way you learned about
8 Dr. Sennels. But now, you see, I take it that Dr. Sennels believes
9 that the Quran is a book that causes people to do criminal things and
10 you've said that's had no impact, am I correct, on your judgment of
11 him?

12 A [DR. WELNER]. No, I have said exactly what you've just said.
13 I have said that the Quran causes radical Islamists to do evil
14 things. And that's precisely why I recommended de-radicalization
15 because there are moderate Muslims who interpret the Quran in a non-
16 antisocial and non-devolved way who should be working with radical
17 Islamists so that they can have a better and less distorted
18 understanding. And--and--and that is not a reflection on the Quran.
19 It is a reflection on how people interpret it and choose it as a
20 vehicle or as a justification on their part to do evil. That's my
21 answer.

22 Q [MAJ SCHWARTZ]. Okay, Doctor. You've said that you agree
23 with some of the statements and not others. So let's go through them

1 one by one----

2 A [DR. WELNER]. Okay.

3 Q [MAJ SCHWARTZ]. ----and figure out which ones you agreed
4 with. Do you agree that a rough estimate shows that close to half of
5 all Muslims in the world are inbred?

6 A [DR. WELNER]. I have no idea.

7 Q [MAJ SCHWARTZ]. So that--is that one you agree with or don't
8 agree with?

9 A [DR. WELNER]. I just don't have an opinion. I haven't
10 conducted the statistical research. If--if those are the statistics,
11 it's possible. It's like asking me a question about fundamentalist
12 Mormons. "Is it 60 percent of them who are inbred or 70?" I don't
13 know. I'm not familiar with the research, and I can't comment on--on
14 the Muslims, or the LDS, or the Amish, or any other closed
15 populations.

16 Q [MAJ SCHWARTZ]. Do you agree or disagree with the statement,
17 "When having Muslim clients on my couch, it was"--well, let me ask
18 you this. You have--in addition to your forensic practice, you also
19 have a clinical practice. Is that right?

20 A [DR. WELNER]. Yes, sir.

21 Q [MAJ SCHWARTZ]. And in your clinical practice you see
22 patients----

23 A [DR. WELNER]. Yes, sir.

1 Q [MAJ SCHWARTZ]. ----of different races and religions?

2 A [DR. WELNER]. Yes, sir.

3 Q [MAJ SCHWARTZ]. Different genders?

4 A [DR. WELNER]. Surely.

5 Q [MAJ SCHWARTZ]. Some--some Americans----

6 A [DR. WELNER]. I should hope so.

7 Q [MAJ SCHWARTZ]. Well, fair enough. Some Americans, some
8 foreigners. Do you have Muslim clients?

9 A [DR. WELNER]. I do.

10 Q [MAJ SCHWARTZ]. And when you see those Muslim patients, do
11 you ever feel as if, "It's like having someone from another planet on
12 my couch"?

13 A [DR. WELNER]. No. But I can tell you this. I have had the
14 experience, as a psychiatrist, of evaluating someone from a culture
15 that I'm absolutely unfamiliar with, or someone who has a lot of
16 difficulty from the English, and--figuratively, and I would imagine
17 that he said that conversationally, "It feels like you're working
18 with someone from another planet." It's just simply an expression.
19 It's a figure of speech by a mental health professional referring to
20 somebody with whom he may have difficulty connecting.

21 So it may be--it may not be an expression that I've used,
22 but when I hear it used by a fellow mental health professional, I
23 understand exactly what he's talking about. He's just basically

1 simply saying that he's encountered this situation when someone is---

2 -

3 Q [MAJ SCHWARTZ]. Doctor----

4 A [DR. WELNER]. ----on his couch----

5 Q [MAJ SCHWARTZ]. Doctor, you----

6 A [DR. WELNER]. ----that he can't relate----

7 Q [MAJ SCHWARTZ]. ----how----

8 A [DR. WELNER]. ----to the person.

9 Q [MAJ SCHWARTZ]. Did you ask him what he meant by that quote,
10 Doctor? Or are you just interpreting?

11 A [DR. WELNER]. Well, of course, I'm interpreting.

12 Q [MAJ SCHWARTZ]. So you haven't--this is--this is an example
13 of a place where he said something, and now you're explaining to us
14 what he meant based on your one phone call----

15 A [DR. WELNER]. No, I'm not explaining what he meant.

16 Q [MAJ SCHWARTZ]. ----and reading one article?

17 A [DR. WELNER]. I'm explaining what my interpretation was. And
18 frankly, the only person who cares what he meant is you. I read the
19 article for its scientific informative value, not to--not for
20 editorial side comments or political solutions.

21 Q [MAJ SCHWARTZ]. Doctor, do you agree or disagree with the
22 phrase--or the statement, "The Western world has to put a complete
23 halt to Muslim immigration and non-Western immigrants who do not

1 already receive a citizenship"?

2 A [DR. WELNER]. I don't agree with that.

3 Q [MAJ SCHWARTZ]. You don't agree with that?

4 A [DR. WELNER]. No.

5 Q [MAJ SCHWARTZ]. No. Do you agree or disagree with, "We
6 should, in general, make it so unpleasant and the economic
7 disadvantage so big that the consequences of non-integration would
8 motivate resident Muslims to emigrate"? Should we do that, Doc?

9 A [DR. WELNER]. I don't agree with it, but I think that that
10 paragraph should be read--or whatever you're reading should be read
11 in connection with the paragraph earlier.

12 Q [MAJ SCHWARTZ]. So it would help the members to have the
13 entire article is what you're saying?

14 A [DR. WELNER]. I think that the entire article is actually a
15 lot more informative than these cherry-picked sections.

16 Q [MAJ SCHWARTZ]. Okay. "Please study the Quran and see what
17 it means. It's a criminal book that forces people to do criminal
18 things." Is that one you agree with, Doctor?

19 A [DR. WELNER]. Again, and--and perhaps for emphasis, I do not
20 believe that the Quran is a criminal book. I believe that criminals
21 who advertise themselves as radical Muslims, who mislead well meaning
22 people into actually think that they are sincere, utilize the Quran
23 and exploit it in order to be subjugating to women within Muslim

1 countries, in order to be predatory to non-Muslims in Muslim
2 countries as well as other countries. So it is their use of the
3 Quran for evil purposes.

4 Q [MAJ SCHWARTZ]. But do you believe, Doctor, and I'll
5 paraphrase this quote that, or--excuse me--I won't paraphrase it. "I
6 began to say what everybody already knew, but, what nobody either
7 wanted or dared to say: That those who are referred to as foreign
8 criminals, religious extremists, or terrorists in the making and who
9 are the cause of lawless parallel societies are all Muslim." Do you
10 believe, Doctor, that they are all Muslim?

11 A [DR. WELNER]. Well, I don't believe that they are all Muslim.
12 But I--but I do think that the point that he is making about how
13 there is a very high representation within European prisons of Muslim
14 populations, is statistically well-founded, which is precisely why
15 his research matters; is that, if--if we want to make some kind of an
16 impact on--on not only what is happening as a criminology trend but
17 also the radicalization that goes on in prisons that we have to
18 understand the--the people that are part of this population.

19 Q [MAJ SCHWARTZ]. And you testified a few minutes ago, you
20 don't have any knowledge of whether Turkish people are inbred or not.

21 A [DR. WELNER]. I'm sure that there's some inbreeding in
22 Turkey, just as there's some inbreeding in the United States. Again,
23 I'm not familiar with the statistics, and I'm not familiar with the

1 research from which these statistics originate.

2 Q [MAJ SCHWARTZ]. Doctor, you testified earlier that Dr.--or
3 Mr. Sennels' work involved his subjective opinions.
4 Is that correct?

5 A [DR. WELNER]. No.

6 Q [MAJ SCHWARTZ]. It didn't--it didn't----

7 A [DR. WELNER]. No.

8 Q [MAJ SCHWARTZ]. ----involve his subjective----

9 A [DR. WELNER]. That's not what my testimony was.

10 Q [MAJ SCHWARTZ]. ----impressions?

11 A [DR. WELNER]. Well, let me tell you what my testimony was.

12 Q [MAJ SCHWARTZ]. What?

13 A [DR. WELNER]. My testimony was: is that he made a clinical
14 assessment, and he offered clinical judgment based on what he was
15 seeing, based on his interview, based on his training and experience.

16 Q [MAJ SCHWARTZ]. And does clinical judgment involve subjective
17 analysis?

18 A [DR. WELNER]. Some.

19 Q [MAJ SCHWARTZ]. Okay, so the answer is yes?

20 A [DR. WELNER]. Well, some subjective analysis and some
21 objective analysis.

22 Q [MAJ SCHWARTZ]. Okay.

23 A [DR. WELNER]. In other words, you ask someone about symptoms

1 that they're experiencing, you ask them about history, you make
2 observations. The observations are subjective, but the information
3 that you gather, based on your training and experience, is objective.
4 And you combine the two, and you combine history and observations,
5 and it informs your assessment.

6 Q [MAJ SCHWARTZ]. So these articles that you've read now, they
7 don't affect your--well, strike the question. Strike it.

8 Let's talk a little bit, Doctor, about Omar Khadr----

9 A [DR. WELNER]. Yes, sir.

10 Q [MAJ SCHWARTZ]. ----because you interviewed him.

11 A [DR. WELNER]. Yes, sir.

12 Q [MAJ SCHWARTZ]. Did you not? And you interviewed him, and
13 you asked him during that interview about memorizing the Quran.

14 A [DR. WELNER]. Yes, sir.

15 Q [MAJ SCHWARTZ]. And that was important in your analysis of
16 whether or not he's devout. Is that correct?

17 A [DR. WELNER]. Yes, sir.

18 Q [MAJ SCHWARTZ]. Okay.

19 A [DR. WELNER]. I--I can't imagine that's something that one
20 does in a day. It requires a considerable amount of devotion, and
21 focus, and initiative, and commitment.

22 Q [MAJ SCHWARTZ]. And Omar Khadr told you about memorizing the
23 Quran. Is that correct?

1 A [DR. WELNER]. Yes, sir.

2 Q [MAJ SCHWARTZ]. Okay. He told you two things, right?

3 A [DR. WELNER]. Yes, sir.

4 Q [MAJ SCHWARTZ]. One was: it was a good thing to do.

5 A [DR. WELNER]. Yes, sir.

6 Q [MAJ SCHWARTZ]. And two, that he had nothing else to do, so
7 he memorized the Quran over 2 years.

8 Is that correct?

9 A [DR. WELNER]. Yes, sir.

10 Q [MAJ SCHWARTZ]. And that was from your interview with him?

11 A [DR. WELNER]. He may have told me other things, but--and I
12 don't specifically recall that he said, "I had nothing else to do."
13 But if you show me the transcript of my interview, that'll refresh my
14 memory. I'm happy to reference it.

15 Q [MAJ SCHWARTZ]. So you don't--you don't remember that he said
16 it that----

17 A [DR. WELNER]. I don't remember that he gave me the
18 explanation that it is--is--that he had nothing better to do. And I
19 can also tell you that that contradicts other evidence that I have
20 available to me to consider about his motivation and inspiration for
21 learning of the Quran.

22 Q [MAJ SCHWARTZ]. Evidence from whom?

23 A [DR. WELNER]. From material that was made available to me at

1 my level of classification that informed my questions for the
2 interview.

3 Q [MAJ SCHWARTZ]. So this is evidence that we don't get to see;
4 is that correct?

5 A [DR. WELNER]. It is evidence that I used in order to
6 formulate my questions. And--and if I did not know that Mr. Khadr
7 had learned the Quran already, I might not have even asked him about
8 his having learned the Quran. But at that point, I already knew that
9 he had learned the Quran and that's what prompted me to ask him about
10 it.

11 Q [MAJ SCHWARTZ]. And--and you knew that he learned the Quran
12 because he, as you said, "was leading prayer." Is that right?

13 A [DR. WELNER]. No, that's not how I knew that he had learned
14 the Quran.

15 Q [MAJ SCHWARTZ]. That's how you learned it in connection with
16 that; is that correct? That was the concept that you were told by
17 these----

18 A [DR. WELNER]. No.

19 Q [MAJ SCHWARTZ]. No?

20 A [DR. WELNER]. No.

21 Q [MAJ SCHWARTZ]. Did you--did you know that he was leading
22 prayer at some point?

23 A [DR. WELNER]. Yes, sir.

1 Q [MAJ SCHWARTZ]. Okay. In fact, you've testified that that
2 was a significant part of your--the factors, the data points, as you
3 call them,-----

4 A [DR. WELNER]. Yes, sir.

5 Q [MAJ SCHWARTZ]. -----in making your--is that correct?

6 A [DR. WELNER]. Yes, sir.

7 Q [MAJ SCHWARTZ]. Okay. And you asked Omar Khadr in your
8 interview about just that, about leading prayer; isn't that correct?

9 A [DR. WELNER]. I did.

10 Q [MAJ SCHWARTZ]. And he told you that he lead prayer because
11 he knows the Quran best. He had memorized it while others hadn't.
12 Is that correct?

13 A [DR. WELNER]. Yes. He--he--he said that he leads the prayer
14 in part because he knows the Quran best.

15 Q [MAJ SCHWARTZ]. Okay. And did you ask him during that
16 interview about his understanding of the meanings of the Quran?

17 A [DR. WELNER]. No.

18 Q [MAJ SCHWARTZ]. You didn't?

19 A [DR. WELNER]. I asked him--I--I think that if I have to
20 remember my interview, and again, if we're going to refer to my
21 interview, I'd really appreciate it if I had a copy or a transcript
22 in front of me to refresh my recollection. It's a 400-page--426-page
23 document that I'm referring to.

1 But, be that as it may, what I do remember from that
2 interview is his having said that he leads the prayers--no, I
3 remember specifically asking him about who was giving him spiritual
4 guidance on the Quran and his telling me that he's--he's pretty much
5 guiding himself.

6 Q [MAJ SCHWARTZ]. So he didn't tell you that he--he understands
7 the words, he's got those, but he doesn't really understand the
8 meanings.

9 A [DR. WELNER]. Well, I asked--I asked him--I remember asking
10 him if there's anything that he had heard from others in the camp in
11 terms of their own religious beliefs that he disagrees with, and he
12 said, "No." And whether that question specifically attached itself
13 to the Quran, or whether that was something that he interpreted as
14 more a function of whether he shares their radical ideologies, I'm
15 not sure.

16 Again, we'd have to go to the transcript, and I'm happy to
17 reference it.

18 Q [MAJ SCHWARTZ]. You--you testified earlier that Omar Khadr is
19 a strict Muslim.

20 A [DR. WELNER]. He's devout.

21 Q [MAJ SCHWARTZ]. He's devout.

22 A [DR. WELNER]. I believe that's the word I'd use.

23 Q [MAJ SCHWARTZ]. Those--well, you've used devout, you've used

1 radical. But he's a----

2 A [DR. WELNER]. The two--I'm not using the two interchangeably.
3 In fact, I've made a distinction to the members that the problem is
4 not devout Islam. The problem is radicalized jihadists who happen to
5 be devout, because the more devout they are, the more it increases a
6 risk of poor prognosis. There are millions of devout Muslims who
7 would be no risk at all to anyone because they have not embraced a
8 radical jihadist philosophy. So there's a very important distinction
9 that I need to make, that I believe that I have made, and I want to
10 reinforce between the word "devout" and the word "radicalized
11 jihadist."

12 Q [MAJ SCHWARTZ]. Right. And you--and for devout, your two
13 criteria were that he'd memorized the Quran.

14 A [DR. WELNER]. Yes.

15 Q [MAJ SCHWARTZ]. Is that correct?

16 A [DR. WELNER]. Yes.

17 Q [MAJ SCHWARTZ]. And you said he didn't memorize the Quran
18 before he got into Guantanamo Bay, but he did after; is that right?

19 A [DR. WELNER]. Yes, sir.

20 Q [MAJ SCHWARTZ]. And he told you, "When I was a kid, when I
21 was 14, 13, 15, I wasn't that interested in it," right?

22 A [DR. WELNER]. Yes.

23 Q [MAJ SCHWARTZ]. And then he got here and had nothing else to

1 do.

2 Is that right?

3 A [DR. WELNER]. Again, the "nothing else to do," I'd like to
4 see the entire context, but I will tell you that I asked him
5 specifically how strictly he lives according to his tenants as a
6 Muslim, and he told me that he tries to live as strict as he can.

7 Q [MAJ SCHWARTZ]. Because it's a good thing to do.

8 A [DR. WELNER]. Because it's his choice; whether it's a good
9 thing to do or not, it's a matter of his choice and my understanding
10 about whether he was devout. So data point additional, since you
11 raised the question, I didn't bring it up in my testimony, but since
12 you've mentioned it, we did speak in the interview, and he told me
13 that he tries to live as strictly as he can.

14 Q [MAJ SCHWARTZ]. Okay. At some point during your interview on
15 the first day, you were concerned about Mr. Khadr being able to take
16 his prayer time.

17 A [DR. WELNER]. Yes, sir.

18 Q [MAJ SCHWARTZ]. And I believe it was from 1600 to 1700.

19 A [DR. WELNER]. Yes, sir.

20 Q [MAJ SCHWARTZ]. Is that correct? Do you remember that?

21 A [DR. WELNER]. I--I do.

22 Q [MAJ SCHWARTZ]. And then Mr. Khadr says, "No, no, no. I can
23 really pray within the window of 1600 to 1730, and so I'm willing to

1 go later so that we can continue this interview."

2 A [DR. WELNER]. Yes, sir.

3 Q [MAJ SCHWARTZ]. Do you remember that?

4 A [DR. WELNER]. I do remember that.

5 Q [MAJ SCHWARTZ]. And then 1700 came, and he said, "No, no, no;
6 I'm fine. I'll do it later." What time did that interview end that
7 day?

8 A [DR. WELNER]. I have no idea.

9 Q [MAJ SCHWARTZ]. Would you--if it ended at 1730, would that
10 sound about right?

11 A [DR. WELNER]. I just don't know. I don't recall looking at a
12 watch, and if I did, it was as incidental as my looking at your shoes
13 when I walked in this room.

14 Q [MAJ SCHWARTZ]. You--it would be incidental to you to look at
15 a watch when the person you're interviewing in a forensic interview
16 has to pray, and--and the time is--is so important to him because
17 he's so devout, as you've put it, as your conclusion states, but yet
18 the interview ends at 1730 and he says, "I'll be fine. I'll--I'll
19 pray tonight."

20 A [DR. WELNER]. Mr. Schwartz----

21 Q [MAJ SCHWARTZ]. Does that sound like devout to you, sir?

22 A [DR. WELNER]. Mr. Schwartz, let me take you back to the
23 interview since you've referenced it. I repeatedly asked Mr. Khadr

1 whether he wanted to pray and--and he--and he asked that we wait.
2 And so I was left with a conclusion after those repeated courteous
3 requests in a very congenial exchange of our sitting together at that
4 time, that basically when he wanted to pray, all he had to do was let
5 me know and that--and that's when we would break.

6 I basically gave him--I asked a question, I may have asked
7 it two times, I may have asked it three times, and at some point with
8 him saying, you know, "It's okay. It's okay." I just said, "All
9 right, well, whenever you want to take a break, then that's when
10 we'll do it." And if we ended at 5:30, we ended at 5:30. If we
11 ended at 5:35, we ended at 5:35.

12 Q [MAJ SCHWARTZ]. Right.

13 A [DR. WELNER]. But the point that I'm making is that I just
14 simply wanted him to have the autonomy to tell me, "Can we shut it
15 down now because I'm ready to pray?" And that's--that's my
16 recollection of what it was.

17 Q [MAJ SCHWARTZ]. Absolutely, that's exactly right. You gave
18 him the autonomy to shut it down in order to pray.

19 A [DR. WELNER]. Yes, sir.

20 Q [MAJ SCHWARTZ]. But he didn't shut it down.

21 A [DR. WELNER]. Yeah, but he may not have had to.

22 Q [MAJ SCHWARTZ]. Even--even during the----

23 A [DR. WELNER]. I don't know enough about these----

1 Q [MAJ SCHWARTZ]. I'm asking question, sir.

2 A [DR. WELNER]. ----times of faith.

3 Q [MAJ SCHWARTZ]. Sir--sir, I'm asking you a question.

4 A [DR. WELNER]. Yes, sir.

5 Q [MAJ SCHWARTZ]. He didn't shut it down during the prayer
6 window, but where is that factored into your testimony regarding
7 whether--how devout he is.

8 A [DR. WELNER]. I'll tell you where it is.

9 The judge will look at the clock at a quarter to four, and
10 say, "We have prayer time at X time, and you need 20 minutes to get
11 over, 10 minutes to get over, 15 minutes to get over." When Mr.
12 Khadr says, "I have between 4:00 and 5:30," is that a strict window
13 according to Muslim tenants, or is it according to everything that I
14 had seen in the course of this case up until then, allowing 20
15 minutes to get to where you need to get to, 10 minutes where you need
16 to get to"? He knows, timing wise, how things work in the camp, and
17 I defer to his judgment.

18 And so, I don't know if--if at some point, at 5:30 when the
19 window closes, that suddenly he's breeched something that's sacred to
20 him or whether it has more to do with how fast he can get a guard to
21 move him from one side of the camp to the next.

22 So again, my primary concern at that time was to make sure
23 that Mr. Khadr felt a certain sense of autonomy and control over the

1 interview and if anything was important to him religiously that he
2 could make the call.

3 Q [MAJ SCHWARTZ]. But--but the issue, Doctor, isn't you.
4 Nobody is saying you weren't conscientious of his need to--and I
5 apologize, I'm not going to move away from the microphone.

6 No one is saying that you weren't conscientious of his need
7 to pray, but you didn't seem to factor in the fact that he didn't
8 pray when--when given a strict--when given a window.

9 A [DR. WELNER]. Mr. Schwartz, let me repeat the answer I just
10 gave because it didn't factor me in at all.

11 The--the answer that I gave was that what I've already
12 witnessed in the court is that the judge will break at certain times
13 because one has to allow for transport and one has to allow for just
14 a natural delay. And so, Mr. Khadr may represent is this is a window
15 of prayer that I have, when the window may be something else, and
16 he's not being dishonest. He's just simply allowing for
17 transportation and how much time you have to get from a room in which
18 you're being interviewed to whatever room in which you're going to
19 pray in.

20 So I'm not in the position as a forensic psychiatrist to
21 check prayer times in some religious document to see if--if what he's
22 giving to me is accurate.

23 Q [MAJ SCHWARTZ]. You've spent five to six hundred hours in

1 this case, and you couldn't take the time to figure out if prayer
2 time was when he said it was?

3 A [DR. WELNER]. No, sir. I didn't.

4 Q [MAJ SCHWARTZ]. You didn't spend five to six hundred hours?

5 A [DR. WELNER]. And if--if I spent a thousand hours on this
6 case, I would not find that to be a consequential point with which to
7 devote the court's or my time.

8 Q [MAJ SCHWARTZ]. It's not consequential to figure out if he's
9 flexible----

10 A [DR. WELNER]. No.

11 Q [MAJ SCHWARTZ]. ----with regard to prayer time?

12 A [DR. WELNER]. What--what----

13 Q [MAJ SCHWARTZ]. That isn't important in your forensic
14 interview of Omar Khadr as you're going to come into court and make a
15 representation as to him being a radical Muslim?

16 A [DR. WELNER]. I don't know that the criteria for radicalism
17 is when a person chooses to pray and to what degree that approximates
18 the recommended prayer time. I believe that the earlier testimony
19 that I gave is that a radical Muslim is a person who seeks to replace
20 civil law with Sharia law.

21 Q [MAJ SCHWARTZ]. Excellent, let's talk about that a little
22 bit.

23 You asked Omar Khadr during the interview, "Do I get a

1 sense that you--as a detainee that you're--if you are living, you
2 want to live according to a religious law and a religious way of
3 life? I think you're actually separated from people who don't live a
4 religious life because most of the detainees are living a religious
5 life or--or is it not that way?" What--and Omar Khadr responded to
6 you, did he not?

7 A [DR. WELNER]. Yes.

8 Q [MAJ SCHWARTZ]. "Well, you can live a religious life with
9 people who are not religious; that doesn't contradict anything."

10 Was that correct? Am I reading that correctly from the
11 transcript?

12 A [DR. WELNER]. I'd love to see it, but it sounds like what I
13 remember him saying.

14 ADC [MAJ SCHWARTZ]: Permission to approach the witness.

15 MJ [COL PARRISH]: Sure.

16 ADC [MAJ SCHWARTZ]: I'm going to be handing him a highlighted
17 copy--I'll show it to the--[showing it to the prosecution table.]

18 CTC [MR. GROHARING]: Thanks.

19 ADC [MAJ SCHWARTZ]: And I had stepped away from the microphone.

20 I've showed a copy of page 179 of the transcript, and I'll
21 ask that it be an appellate exhibit.

22 MJ [COL PARRISH]: Thank you. Well, how about we have the court
23 reporter mark it, then you can show it to the witness, how's that?

1 ADC [MAJ SCHWARTZ]: Yes, sir.

2 [The assistant defense counsel handed the document to the court
3 reporter and it was marked as AE 347.]

4 MJ [COL PARRISH]: I think it's ready for you there, Major
5 Schwartz.

6 ADC [MAJ SCHWARTZ]: Thank you, Your Honor. I'm--I'm retrieving
7 it from the court reporter.

8 MJ [COL PARRISH]: She can hear you. It's just that if you are
9 too far away in standing, there's a problem. Like if I'm back from
10 the microphone right now, I'm going to be chastised when I get back
11 in a recess that I'm not close enough to the microphone or something
12 like that. That's okay.

13 ADC [MAJ SCHWARTZ]: Yes, sir. Not--not that I feel that
14 there's a leash on me.

15 [The assistant defense counsel handed AE 347 to the witness.]

16 WIT [DR. WELNER]: Thank you.

17 ADC [MAJ SCHWARTZ]: I've handed the appellate exhibit to the
18 witness.

19 [The witness reviewed AE 347.]

20 MJ [COL PARRISH]: Okay, he--he--apparently has seen it. Do you
21 have----

22 WIT [DR. WELNER]: I've seen it, yes.

23 MJ [COL PARRISH]: And if you wanted to hold on to it, you can

1 hold on to it too; it doesn't matter.

2 WIT [DR. WELNER]: Okay.

3 **Questions by the assistant defense counsel, Major Schwartz,**
4 **continued:**

5 Q [MAJ SCHWARTZ]. Now, Doctor, did I accurately read to you
6 from the transcript?

7 A [DR. WELNER]. Can you read it again, just refresh my
8 recollection?

9 ADC [MAJ SCHWARTZ]: Absolutely.

10 MJ [COL PARRISH]: Why don't you just look at, Doctor, that
11 would be so much easier.

12 WIT [DR. WELNER]: Thank you, Your Honor. I appreciate it.

13 MJ [COL PARRISH]: Sure.

14 WIT [DR. WELNER]: Okay.

15 [The witness reviewed AE 347.]

16 ADC [MAJ SCHWARTZ]: Have you had an opportunity to review it?

17 WIT [DR. WELNER]: I have.

18 ADC [MAJ SCHWARTZ]: And has your recollection been refreshed?

19 MJ [COL PARRISH]: Just--he--let him hold on to it----

20 WIT [DR. WELNER]: Again----

21 MJ [COL PARRISH]: ----while you ask him the questions. How's
22 that?

23 WIT [DR. WELNER]: Yes.

1 ADC [MAJ SCHWARTZ]: Doctor----

2 WIT [DR. WELNER]: Perhaps, we can read it together, and that--
3 that would be----

4 MJ [COL PARRISH]: No, let's not read it together.

5 WIT [DR. WELNER]: All right.

6 MJ [COL PARRISH]: Please ask the question.

7 **Questions by the assistant defense counsel, Major Schwartz,**

8 **continued:**

9 Q [MAJ SCHWARTZ]. Doctor, Omar Khadr, during your interview
10 with him, said that "I can be a Muslim. You can be a Christian. It
11 doesn't have anything to do with anything."

12 A [DR. WELNER]. Yes, sir.

13 Q [MAJ SCHWARTZ]. Is that right?

14 A [DR. WELNER]. Yes, sir.

15 Q [MAJ SCHWARTZ]. And Omar Khadr never expressed to you a
16 desire to live alone amongst Muslims, did he?

17 A [DR. WELNER]. I don't understand. Do you mean--to live in a

18 ----

19 Q [MAJ SCHWARTZ]. Well, he said to you that he----

20 A [DR. WELNER]. ----in an exclusively----

21 Q [MAJ SCHWARTZ]. He said to you he----

22 A [DR. WELNER]. ----Muslim environment?

23 Q [MAJ SCHWARTZ]. Yes.

1 A [DR. WELNER]. No, he did not.

2 Q [MAJ SCHWARTZ]. No, he said he wanted to go to Canada.

3 A [DR. WELNER]. Yes, sir.

4 Q [MAJ SCHWARTZ]. And you had concerns about that because you
5 said, "Well, won't it be hard? I know your family," you invoked his
6 family, and you said----

7 A [DR. WELNER]. Can I see the transcript that you're
8 referencing?

9 Q [MAJ SCHWARTZ]. I----

10 A [DR. WELNER]. Again, if we're going to talk about what I
11 said, I'd like to be able to see it in front of me, so that it is
12 accurately represented in the record.

13 ADC [MAJ SCHWARTZ]: If I could just have one moment.

14 [The defense counsel conferred.]

15 ADC [MAJ SCHWARTZ]: If I could just have a minute to--to locate
16 the page.

17 MJ [COL PARRISH]: Sure.

18 [The defense counsel searched for the transcript.]

19 ADC [MAJ SCHWARTZ]: I apologize; I don't have it in a
20 searchable fashion. So I'm going to have to--not be able to give it
21 to you.

22 [END OF PAGE]

23

1 **Questions by the assistant defense counsel, Major Schwartz,**
2 **continued:**

3 Q [MAJ SCHWARTZ]. Omar Khadr didn't say to you, "I want to live
4 under Sharia," did he?

5 A [DR. WELNER]. I--I want to look at the transcript where I--I-
6 -where that topic was discussed.

7 Q [MAJ SCHWARTZ]. Did you ask Omar Khadr if he wanted to live
8 under Sharia law?

9 A [DR. WELNER]. Again, I want--I know that there was--there
10 were a couple questions that indirectly touched on that, and I want
11 to reference my transcript.

12 ADC [MAJ SCHWARTZ]: But, Doctor, you are an expert witness.
13 You've sat up here for 7 or 8 hours----

14 ATC [CAPT EASON]: Your Honor, at this time, I think the witness
15 has indicated several times he doesn't have an accurate recollection.
16 He would need something to refresh his memory. He keeps asking the
17 same question over and over and over again. If he wants to ask him
18 the question, refresh his memory, Your Honor. He can--he can find
19 the document he's talking about and give it to the witness.

20 ADC [MAJ SCHWARTZ]: I'm happy to take 2 or 3 minutes and find
21 it.

22 MJ [COL PARRISH]: Okay.

23 ADC [MAJ SCHWARTZ]: Thank you.

1 [The defense counsel searched for the transcript.]

2 ADC [MAJ SCHWARTZ]: Your Honor, as this might be a good time
3 for a comfort break if we can combine a comfort break with my finding
4 this, so it would be an efficient use of time, please.

5 MJ [COL PARRISH]: Okay. Members, about 10 minutes.

6 We're in recess.

7 **[The military commission recessed at 1413, 27 October 2010.]**

8 **[The military commission was called to order at 1430, 27 October**
9 **2010.]**

10 MJ [COL PARRISH]: The commission is called to order.

11 All parties are present to include the members. And Dr.
12 Welner is still on the stand.

13 You may continue there, Major Schwartz.

14 ADC [MAJ SCHWARTZ]: Thank you, sir.

15 At this time, I'm going to retrieve the document--the
16 appellate exhibit from the witness. I note, Your Honor, that it had
17 initially been noted as a one-page document; it's now a two-page
18 appellate exhibit with the next page in order from the transcript
19 having been provided to the witness during the break.

20 MJ [COL PARRISH]: Okay, very well. If you're going to refer to
21 that during your testimony--I mean during your examination, having
22 him hold on to it might just shorten things.

23 ADC [MAJ SCHWARTZ]: Yes, sir.

1 ATC [CAPT EASON]: Excuse me, Your Honor.

2 Do you have an extra copy for us too?

3 ADC [MAJ SCHWARTZ]: I don't, no.

4 ATC [CAPT EASON]: No?

5 DC [LTC JACKSON]: It's page 346----

6 ADC [MAJ SCHWARTZ]: It's page 179 and 180 of the transcript.

7 ATC [CAPT EASON]: Pursuant to the court's earlier rulings, we
8 don't have a copy of that transcript here.

9 MJ [COL PARRISH]: You don't?

10 ATC [CAPT EASON]: No, sir.

11 MJ [COL PARRISH]: Okay.

12 ATC [CAPT EASON]: The prosecution team does not.

13 MJ [COL PARRISH]: Continue.

14 ADC [MAJ SCHWARTZ]: Thank you.

15 **Questions by the assistant defense counsel, Major Schwartz,**
16 **continued:**

17 Q [MAJ SCHWARTZ]. I believe where we left off, Doctor, is we
18 were talking about Canada. And I believe during your interview, you
19 asked him, "What do you think it would be like for you as a devout
20 Muslim living in Canada?" And Omar responded, "I practice my
21 religion, and everybody can practice his own religion." Is that your
22 memory?

23 A [DR. WELNER]. Yes, sir.

1 Q [MAJ SCHWARTZ]. That is your memory?

2 A [DR. WELNER]. I remember that, yes.

3 Q [MAJ SCHWARTZ]. Okay, that you remember.

4 He also went on to tell you, "And--and I can live with
5 anyone--anybody and, you know, if you're not going to harm me
6 personally, then you can do whatever you want," talking about
7 religion and freedom; is that right?

8 A [DR. WELNER]. Again, at this point, I'd like to reference
9 the--the actual transcript.

10 Q [MAJ SCHWARTZ]. Okay, but right now, for this moment, I'm
11 asking you about your memory. Do you remember that portion of the---
12 -

13 A [DR. WELNER]. I--if I'm going to be quoted, I'd like to see
14 my quote.

15 ADC [MAJ SCHWARTZ]. Okay. And I'll hand it to you in a moment
16 and ask that it be marked as the next appellate exhibit. It's a two-
17 page document, 195 and 196 of the transcript. I believe it would be
18 Appellate Exhibit 348.

19 MJ [COL PARRISH]: And, Government, do you have a copy of that?
20 No?

21 ATC [CAPT EASON]: No, sir. We have a copy of----

22 MJ [COL PARRISH]: They don't have a copy of that transcript.

23 ADC [MAJ SCHWARTZ]: This is a document that was provided to the

1 defense by the government, I believe.

2 ATC [CAPT EASON]: Sir, per----

3 ADC [MAJ SCHWARTZ]: Is that incorrect?

4 MJ [COL PARRISH]: No.

5 ATC [CAPT EASON]: We were not permitted to look at it.

6 ADC [MAJ SCHWARTZ]: Okay.

7 MJ [COL PARRISH]: No, they were not allowed to look at it. It
8 just belongs to you.

9 ADC [MAJ SCHWARTZ]: The transcript, that's correct.

10 We will make them--I mean, how would you like us to handle
11 this, sir?

12 MJ [COL PARRISH]: Well, how about letting them look at that?

13 [The assistant defense counsel handed the transcript to the assistant
14 trial counsel.]

15 ATC [CAPT EASON]: Thank you.

16 MJ [COL PARRISH]: But reading it doesn't mean memorizing it.

17 ATC [CAPT EASON]: Yes, sir.

18 [The trial counsel reviewed the transcript and handed it back to the
19 assistant defense counsel.]

20 ATC [CAPT EASON]: Thank you.

21 ADC [MAJ SCHWARTZ]: I'm retrieving--retrieving Appellate
22 Exhibit 348 from the prosecution, and I am handing it to the witness.

23 WIT [DR. WELNER]: Thank you.

1 [The witness reviewed AE 348.]

2 WIT [DR. WELNER]: Yes.

3 **Questions by the assistant defense counsel, Major Schwartz,**
4 **continued:**

5 Q [MAJ SCHWARTZ]. Yes, what, Doctor? I'm sorry.

6 A [DR. WELNER]. Yes, I read it--yes, I've read it. And yes,
7 what you've just represented is what I said and what he responded.

8 ADC [MAJ SCHWARTZ]: I'm retrieving Appellate Exhibit 348 from
9 the witness.

10 WIT [DR. WELNER]: Thank you [handing AE 348 back to the
11 assistant trial counsel.]

12 MJ [COL PARRISH]: Just don't forget, though, now that they're
13 marked as an exhibit, it belongs to the court reporter.

14 ADC [MAJ SCHWARTZ]: Yes, and we will--we will make a photocopy,
15 sir.

16 MJ [COL PARRISH]: Yeah. All right.

17 **Questions by the assistant defense counsel, Major Schwartz,**
18 **continued:**

19 Q [MAJ SCHWARTZ]. So Omar Khadr in his interview with you said
20 that he would practice his religion and others could practice theirs?

21 A [DR. WELNER]. Yes, sir.

22 ADC [MAJ SCHWARTZ]: Okay. And that is--nothing further with
23 that.

1 [The assistant trial counsel placed AE 348 back on the defense
2 counsels' table.]

3 MJ [COL PARRISH]: No, what happens is, you give it back to the
4 court reporter and----

5 ADC [MAJ SCHWARTZ]: I was--yes, sir.

6 MJ [COL PARRISH]: ----and then make a copy later on. But once
7 it's marked, it belongs to the court reporter.

8 ADC [MAJ SCHWARTZ]: Fair enough, sir. I'm handing it to the
9 court reporter [handing AE 348 to the court reporter.] Sorry, ma'am.

10 MJ [COL PARRISH]: It's less likely to get misplaced that way.

11 ADC [MAJ SCHWARTZ]: I'm handing 347 to the court reporter.

12 **Questions by the assistant defense counsel, Major Schwartz,**
13 **continued:**

14 Q [MAJ SCHWARTZ]. Doctor, earlier we were talking about whether
15 or not--whether or not Omar was willing to go until 5:30, even though
16 prayer time was between 1600 and 1730.

17 Do you remember--I note that the witness is making a note
18 on the stand.

19 MJ [COL PARRISH]: He may be writing a note to himself to remind
20 him of something else.

21 WIT [DR. WELNER]: Yes, Your Honor.

22 MJ [COL PARRISH]: Perfectly permissible.

23 WIT [DR. WELNER]: I'm just making a note for redirect not for

1 anything that's going to concern us.

2 ADC [MAJ SCHWARTZ]: We won't be concerned by that.

3 MJ [COL PARRISH]: Perhaps at a later time, but not right now.

4 ADC [MAJ SCHWARTZ]: Permission to approach the witness?

5 MJ [COL PARRISH]: Certainly.

6 ADC [MAJ SCHWARTZ]: I'm going to ask that this be marked as
7 Appellate 349, and I'm handing it to the court reporter.

8 MJ [COL PARRISH]: Okay, then make sure the government gets to
9 see it since----

10 ADC [MAJ SCHWARTZ]: Absolutely.

11 MJ [COL PARRISH]: ----they haven't seen it yet.

12 [The court reporter marked the document as AE 349.]

13 ADC [MAJ SCHWARTZ]: Thank you.

14 [The assistance defense counsel handed AE 349 to the trial counsel
15 for review.]

16 ADC [MAJ SCHWARTZ]: I'm handing--I've retrieved Appellate
17 Exhibit 349 from the--from the prosecution, and I'm handing it to the
18 witness.

19 WIT [DR. WELNER]: Thank you.

20 ADC [MAJ SCHWARTZ]: Certainly.

21 [The witness reviewed AE 349.]

22 WIT [DR. WELNER]: I remember this exchange.

23

[END OF PAGE]

1 **Questions by the assistant defense counsel, Major Schwartz,**
2 **continued:**

3 Q [MAJ SCHWARTZ]. Okay. And Omar Khadr was willing to--and was
4 flexible in when he prayed that evening?

5 A [DR. WELNER]. Yeah, actually, I was trying to shut down the
6 interview at that point.

7 Q [MAJ SCHWARTZ]. And he was willing to keep going.

8 A [DR. WELNER]. And he was asking me to continue, and I was
9 trying to shut it down.

10 A [DR. WELNER]. So he wasn't hostile to you----

11 A [DR. WELNER]. No.

12 Q [MAJ SCHWARTZ]. ----in that interview?

13 A [DR. WELNER]. Not at all. But----

14 Q [MAJ SCHWARTZ]. And you're--just so I recall, you're a mental
15 health professional, and you're not part of the defense team; is that
16 correct?

17 A [DR. WELNER]. No, sir.

18 Q [MAJ SCHWARTZ]. Please continue.

19 A [DR. WELNER]. I believe I've answered the question.

20 ADC [MAJ SCHWARTZ]: Excellent. I will retrieve--I will
21 retrieve Appellate Exhibit 349 and hand it to the court reporter.

22 [The assistant trial counsel retrieved AE 349 and handed it to the
23 court reporter.]

1 MJ [COL PARRISH]: Thank you. I don't know what an Air Force
2 judge lets you get away with, but in the Army, once it's marked, the
3 court reporter owns it.

4 ADC [MAJ SCHWARTZ]: I won't argue, sir, because I've got
5 nothing.

6 MJ [COL PARRISH]: That's right.

7 **Questions by the assistant defense counsel, Major Schwartz,**
8 **continued:**

9 Q [MAJ SCHWARTZ]. You mentioned earlier that--in your direct
10 examination that Omar read Harry Potter----

11 A [DR. WELNER]. Yes, sir.

12 Q [MAJ SCHWARTZ]. ----to escape, but he didn't read educational
13 materials.

14 A [DR. WELNER]. Yes, sir.

15 Q [MAJ SCHWARTZ]. And you found that to be significant?

16 A [DR. WELNER]. I found it to be significant only insofar as
17 what I--what I testified to.

18 Q [MAJ SCHWARTZ]. Yes, and you drew some information and
19 importance from that, did you not?

20 A [DR. WELNER]. It was instructive to me.

21 Q [MAJ SCHWARTZ]. Okay. Did he tell you he just read Harry
22 Potter?

23 A [DR. WELNER]. No, he said that he--he read or watched movies

1 in order to escape. That escapism was something that was important
2 to him. It's something that was very much a part of how he
3 approached his day.

4 Q [MAJ SCHWARTZ]. He told you that he read President Obama's
5 Dreams of My Father?

6 A [DR. WELNER]. Yes, sir.

7 Q [MAJ SCHWARTZ]. He told you that he read Ishmael Beah's A
8 Long Way Gone?

9 A [DR. WELNER]. Oh, yes, sir.

10 Q [MAJ SCHWARTZ]. He told you he read Nelson Mandela's Walk of-
11 -Walk to Freedom?

12 A [DR. WELNER]. Yes, sir. And I asked him----

13 Q [MAJ SCHWARTZ]. He told you he----

14 A [DR. WELNER]. And--we spoke about it, and I asked him what he
15 got out of these books.

16 Q [MAJ SCHWARTZ]. And he told you he read John Grisham books?

17 A [DR. WELNER]. Yes.

18 Q [MAJ SCHWARTZ]. Ann Brown's books?

19 A [DR. WELNER]. Ann Brown, I don't remember, but I mean, you
20 have the transcript. If it's that important, I'll look at it.

21 Q [MAJ SCHWARTZ]. He also told you that he read Danielle
22 Steele?

23 A [DR. WELNER]. That I remember.

1 Q [MAJ SCHWARTZ]. All right. Nicholas Sparks?

2 A [DR. WELNER]. Again, the name I don't remember. Of course,
3 I----

4 Q [MAJ SCHWARTZ]. He told you he----

5 A [DR. WELNER]. ----may want to know why I remember Danielle
6 Steele, but somehow that name stood out.

7 Q [MAJ SCHWARTZ]. That--that's fair enough. He read all kinds
8 of novels, magazines, comics, adventure magazines, the Harry Potter
9 series.

10 A [DR. WELNER]. And kung-fu movies and stuff like that.

11 Q [MAJ SCHWARTZ]. The Twilight series.

12 A [DR. WELNER]. Jackie Chan and----

13 Q [MAJ SCHWARTZ]. Chronicles of Narnia?

14 A [DR. WELNER]. I think we're just----

15 Q [MAJ SCHWARTZ]. Chronicles of Narnia, sir?

16 A [DR. WELNER]. I don't remember. I'm just remembering that--
17 the different things that he did tell me that he--that he did. And
18 again, the way he depicted his choice in reading and the things that
19 he watched was to escape and fantasy.

20 Q [MAJ SCHWARTZ]. Okay. Did he also tell you that he tried--
21 that he had a GED, a math, an English, and a geology textbook, sir?

22 A [DR. WELNER]. Yes, he told me that either defense or--or
23 some--some well wishers may have provided them to him.

1 Q [MAJ SCHWARTZ]. In fact, he told you that, "My delegates,"
2 the Canadian delegates, "brought me the GED. Well, the lawyers give
3 it to the Canadians and the Canadians brought it for me, a GED. And
4 they brought me some just English books, English textbooks, and they
5 brought me some math, some science, and some geology"?

6 A [DR. WELNER]. Yes, sir.

7 Q [MAJ SCHWARTZ]. "Because you know my hope--my future hope is
8 to be a doctor. So that these are some of the types of things I have
9 to try to read"?

10 A [DR. WELNER]. Yes, sir.

11 Q [MAJ SCHWARTZ]. And so he told you he was trying to read
12 them?

13 A [DR. WELNER]. No, he told me that they brought them to him.
14 That's what he told me.

15 Q [MAJ SCHWARTZ]. "So I have been trying to read"?

16 A [DR. WELNER]. Yes, sir.

17 Q [MAJ SCHWARTZ]. Is that what he told you?

18 A [DR. WELNER]. Again, if I could--if I could have the
19 transcript to refresh that would be great.

20 ADC [MAJ SCHWARTZ]: May I have this marked as Appellate Exhibit
21 349, please?

22 WIT [DR. WELNER]: As well as the next page, please. Thank you.

23 MJ [COL PARRISH]: The court reporter can mark that one; it's

1 just going to be the same exhibit.

2 ADC [MAJ SCHWARTZ]: Yes, sir.

3 I would ask that Appellate Exhibit 340--350, thank you, is
4 a four-page document, pages 299 to 302 from the transcript.

5 [The court reporter marked the documents as AE 350.]

6 ADC [MAJ SCHWARTZ]: I'm retrieving Appellate Exhibit 350 from
7 the court reporter, and I'm handing it to the prosecution.

8 [The trial counsel reviewed AE 350.]

9 ATC [CAPT EASON]: Your Honor, and I apologize to the court for
10 this, but it appears the defense counsel--this is a three-page
11 document. It appears the defense counsel has several more of these
12 stacks of papers lined up to ask Dr. Welner about. We do not have a
13 copy of any of this. We have not been provided before this. We'd
14 ask that we have a recess; we get a copy from the defense, so we can
15 properly look through this and efficiently then roll right into
16 redirect, rather than take a break in between, so we can gather the
17 documents and look through it for ourselves for redirect questions.

18 MJ [COL PARRISH]: Are you going to be asking about other pages
19 of the transcript?

20 ADC [MAJ SCHWARTZ]: I tell you what, from now on, sir, I won't
21 ask--I'll ask him his memory, and I won't ask him to confirm it if he
22 doesn't remember.

23 MJ [COL PARRISH]: Okay.

1 ATC [CAPT EASON]: Okay.

2 [The trial counsel continued to review AE 350.]

3 ATC [CAPT EASON]: Sorry, did you want this--I thought you
4 weren't asking any more confirmation questions.

5 Do you want this back?

6 ADC [MAJ SCHWARTZ]: Yes.

7 ATC [CAPT EASON]: Oh, okay [handing AE 350 to the assistant
8 defense counsel.]

9 MJ [COL PARRISH]: I think it's the other ones.

10 ATC [CAPT EASON]: It was a misunderstanding, Your Honor. I
11 thought----

12 MJ [COL PARRISH]: I think it's the other ones he's not going to
13 be asking.

14 ATC [CAPT EASON]: Okay.

15 ADC [MAJ SCHWARTZ]: I'm handing the--I'm handing the witness
16 Appellate Exhibit 350.

17 WIT [DR. WELNER]: Thank you.

18 [The witness reviewed AE 350.]

19 WIT [DR. WELNER]: I--I have a number of points to raise in
20 connection with this. I don't know how many questions you have, but-
21 ---

22 MJ [COL PARRISH]: Just--just--Dr. Welner----

23 WIT [DR. WLNER]: ----if I could just keep it close, that would

1 be great.

2 ADC [MAJ SCHWARTZ]: Well, I'm going to retrieve it, Doctor,
3 have you had an opportunity to review it?

4 WIT [DR. WELNER]. I have, yes.

5 ADC [MAJ SCHWARTZ]: With your permission, sir,----

6 WIT [DR. WELNER]: Actually----

7 ADC [MAJ SCHWARTZ]: ----I'm going to retrieve the Appellate
8 350.

9 MJ [COL PARRISH]: Take it back and hand----

10 WIT [DR. WELNER]: Just one quick moment [reviewing AE 350.]
11 [The witness handed AE 350 back to the assistant defense counsel.]

12 ADC [MAJ SCHWARTZ]: I've retrieved Appellate 350--Appellate
13 Exhibit 350.

14 **Questions by the assistant defense counsel, Major Schwartz,**
15 **continued:**

16 Q [MAJ SCHWARTZ]. And Mr. Khadr told you that--that it's hard
17 for him to teach himself these educational topics; is that correct?

18 A [DR. WELNER]. You mean the English educational topics as
19 opposed to the Quran, correct?

20 Q [MAJ SCHWARTZ]. I do. I--yes, sir. I'm talking about the
21 different textbooks and the GED.

22 A [DR. WELNER]. Yes. He--he said that it was hard, and that is
23 why he wasn't reading, or that that's why he was not pursuing it.

1 Q [MAJ SCHWARTZ]. In fact, he said, "Some things are just a
2 little bit--a little more difficult because I stopped at eighth
3 grade, and it's been 8 years, and some things are just difficult for
4 me to try and study by myself."

5 A [DR. WELNER]. He did say that.

6 Q [MAJ SCHWARTZ]. Okay. And you said, "For example,
7 mathematics and English, you would have to have more of a background
8 to get to the level that they've given you," regarding the textbooks.
9 And he responded, "Yeah."

10 A [DR. WELNER]. Yes, sir.

11 ADC [MAJ SCHWARTZ]: And I'm returning Appellate 350 to the
12 court reporter.

13 Q [MAJ SCHWARTZ]. Now, Doctor, earlier when you testified, you
14 brought up a sensitive topic where you--you said that Omar Khadr had
15 called an African-American translator or guard, and I think you used
16 words like "bitch," and "slave," and things like that.

17 Do you remember testifying about that?

18 A [DR. WELNER]. I believe that I testified that he used those
19 words, not me.

20 Q [MAJ SCHWARTZ]. Well, I understand that you didn't use them.
21 You testified that it was your understanding that he used them.

22 A [DR. WELNER]. That was in the record, yes.

23 Q [MAJ SCHWARTZ]. Okay. Did you ask Omar about that?

1 A [DR. WELNER]. I did.

2 Q [MAJ SCHWARTZ]. And he told you, "Well, I'm not going to lie
3 to you. I have cursed at guards before, but I don't think I did that
4 one because that was just a month or two or three before I was moved
5 into Camp IV, for the most compliant prisoners. So I don't think
6 that's one that I did." Is that right? Is that a fair summary of
7 your----

8 A [DR. WELNER]. I would need to read the--the entirety of that
9 exchange, which I believe extended over several pages.

10 Q [MAJ SCHWARTZ]. Okay. Before we do--let's talk about your
11 memory for a little while. You've testified for 8, 9 hours without
12 the use of notes; is that correct?

13 A [DR. WELNER]. I think we take our share of breaks, but I try
14 to testify without notes, yes.

15 Q [MAJ SCHWARTZ]. Okay. And so your memory must be pretty
16 good.

17 A [DR. WELNER]. My memory is adequate for when I quote myself.
18 My memory is inadequate for how you choose to quote me. I would draw
19 that distinction.

20 Q [MAJ SCHWARTZ]. So you really know what you say very well; is
21 that correct?

22 A [DR. WELNER]. I tried to choose my--my words and
23 occasionally, you know, I--I may use an example if it comes to mind.

1 If I feel like it's appropriate to bring up Woody Allen at the time,
2 but otherwise I can account for what I say and standby it.

3 Q [MAJ SCHWARTZ]: So, as you've testified here today over the
4 hundreds of sources that you've poured over in preparing for and in
5 performing the services that you were hired to do, how is it possible
6 that you remember every conversation that involves someone saying
7 that Omar did something bad from this classified information that we
8 can't see, that you can't reference--how is it possible that you
9 don't remember the forensic----

10 ATC [CAPT EASON]: Your Honor, we're going to object to this
11 characterization. They had all the classified information that we
12 have, Your Honor, in this regard that Dr. Welner has reviewed.

13 ADC [MAJ SCHWARTZ]: I don't believe, Your Honor, that was my
14 point. My point is that he's citing to it----

15 MJ [COL PARRISH]: Well, I think--but, what I think Dr. Welner
16 was--and correct me if I'm--if I'm wrong, Dr. Welner, is that you
17 couldn't comment on that classified material here in open court.

18 WIT [DR. WELNER]: That's correct. Oh, I remember it----

19 MJ [COL PARRISH]: You remember it, but you couldn't comment out
20 here in open court.

21 WIT [DR. WELNER]: That's exactly right.

22 MJ [COL PARRISH]: Not that others had not seen it. But we're
23 in open court and classified material is not--we're not going to talk

1 about that right now.

2 WIT [DR. WELNER]: That's correct.

3 MJ [COL PARRISH]: Okay. Just what I--that's what I understood
4 you to say.

5 WIT [DR. WELNER]: Thank you, Your Honor.

6 **Questions by the assistant defense counsel, Major Schwartz,**
7 **continued:**

8 Q [MAJ SCHWARTZ]. And as did I, sir. I'm not claiming that--my
9 point, Doctor, is that you see--you remember everything that is bad
10 about Omar Khadr, whether it's your impressions or what somebody says
11 to you in any setting, but you can't remember the seven-hour forensic
12 interview you had of the very person who was the subject of this?
13 You're a--how is that----

14 A [DR. WELNER]. Mr. Schwartz----

15 Q [MAJ SCHWARTZ]. ----how is that possible?

16 A [DR. WELNER]. Mr. Schwartz, over the last hour, I think you
17 misquoted me somewhere between 5 and 10 times. This is a sensitive
18 enough issue that the turn of a phrase when misquoted, offered out of
19 context, can have an enormous impact on misleading the members, in my
20 opinion, and actually the substance of the encounter.

21 That is not what I wish. It's not my role up here. And
22 you and I have different roles. Now, be that as it may, just--even
23 as an example, when you introduced page 179, when I read page 180, it

1 gave the encounter an entirely different context, which Mr. Eason--
2 which Captain Eason may choose to ask me on redirect. And I think
3 that, if you have an interest in----

4 Q [MAJ SCHWARTZ]. Sir, I have no--I have no doubt that you're--
5 --

6 A [DR. WELNER]. I just want to make sure that my----

7 Q [MAJ SCHWARTZ]. Sir----

8 A [DR. WELNER]. ----words are represented accurately.

9 Q [MAJ SCHWARTZ]. But you're not interested in making----

10 A [DR. WELNER]. And that's all I'm wishing.

11 Q [MAJ SCHWARTZ]. ----sure that his words are represented
12 accurately-----

13 A [DR. WELNER]. Sure I am.

14 Q [MAJ SCHWARTZ]. ----and that's the problem.

15 A [DR. WELNER]. Have--I believe that I have taken pains not to
16 misquote Mr. Khadr when I wrote a 65-page report on this case
17 earlier. I used the transcript, and I even arranged for the
18 transcript, in order that I quote him accurately. I videotaped my
19 interviews. Your witnesses did not. I've provided 426 pages of
20 transcript from any minute I spent with Mr. Khadr.

21 MJ [COL PARRISH]: Sir, sir, please.

22 Major Schwartz, I think one of your counsel wants to talk
23 to you. Okay. That's all right. I just----

1 ADC [MAJ SCHWARTZ]: Thank you, sir.

2 WIT [DR. WELNER]: And I used that transparency in order to
3 quote him accurately. I have given Mr. Khadr his due and his
4 compliments where they're due, his acknowledgment. And if there are
5 areas in which you would like me to consider, that perhaps I
6 shouldn't be considering, ask me about them. That's as best as I can
7 say.

8 ADC [MAJ SCHWARTZ]: Doctor, how many people did you speak to
9 in--without telling us their names, in addition to Mr.--Mr. Sennis
10 [sic] and the Director of the JIG, how many people did you interview?

11 WIT [DR. WELNER]: Now, Your Honor, I may need to refer to that--
12 --what I had brought with me.

13 MJ [COL PARRISH]: Sure.

14 ADC [MAJ SCHWARTZ]: And I'd ask, Your Honor, that we remark
15 whatever he's referring to----

16 MJ [COL PARRISH]: Yeah, sure.

17 ADC [MAJ SCHWARTZ]: ----as an appellate exhibit.

18 MJ [COL PARRISH]: We'll just get it marked, but you may refer
19 to it. Yes, sir.

20 ADC [MAJ SCHWARTZ]: And I'll retrieve it from the witness, hand
21 it to the court reporter, so it can be so marked.

22 MJ [COL PARRISH]: Sure. Let him review it, then we'll get it
23 marked, that's all.

1 [The witness reviewed his materials.]

2 WIT [DR. WELNER]: I can address your question, if you wish.

3 ADC [MAJ SCHWARTZ]: Okay. Well, before you address it, if I
4 could retrieve that and have it marked----

5 MJ [COL PARRISH]: We just have to have it marked, sir.

6 ADC [MAJ SCHWARTZ]: ----as an appellate exhibit.

7 MJ [COL PARRISH]: Just so--as a record, we know what it is that
8 you refreshed. That's all.

9 We'll get it back to you, sir. That's all.

10 WIT [DR. WELNER]: Yes, sir. This is a partial list of the
11 sources in which I relied upon----

12 MJ [COL PARRISH]: Sir----

13 WIT [DR. WELNER]: ----which I assembled again for purposes of
14 just referring to on--as need be.

15 MJ [COL PARRISH]: Sir, you may use anything in the world to
16 refresh your memory. It's just that when we do that we get it
17 marked. We'll get it back to you, sir.

18 WIT [DR. WELNER]: Thank you, Your Honor.

19 MJ [COL PARRISH]: Just----

20 ADC [MAJ SCHWARTZ]: And I'm going to hand the court reporter,
21 to be marked as the next appellate exhibit,----

22 MJ [COL PARRISH]: Sure.

23 ADC [MAJ SCHWARTZ]: ----a list that goes from 1 to 147.

1 [The assistant defense counsel handed the document to the court
2 reporter to be marked.]

3 MJ [COL PARRISH]: Okay. And then someone will make
4 arrangements immediately during the next recess, whenever that is,
5 copies made, so we can get this back to Dr. Welner.

6 ADC [MAJ SCHWARTZ]: Yes, sir.

7 [The court reporter marked the document as AE 351.]

8 MJ [COL PARRISH]: Now, you can give that back to Dr. Welner.

9 [AE 351 was returned to Dr. Welner.]

10 WIT [DR. WELNER]: Thank you.

11 MJ [COL PARRISH]: I think he's ready to answer your questions
12 now.

13 **Questions by the assistant defense counsel, Major Schwartz,**
14 **continued:**

15 Q [MAJ SCHWARTZ]. Okay. Doctor, how many people did you speak
16 to in addition to Mr. Sennis [sic] and the Director of the JIG?

17 A [DR. WELNER]. I spoke to Dr. Sennels. I spoke to the
18 Director of the JIG on three or four occasions. I spoke to four of
19 the senior intelligence analysts over there. I spoke to three of the
20 supervising guards and officers at the camps. I spoke to [reviewing
21 AE 351]--I spoke to Interrogator 5. I spoke to Interrogator 1. I
22 spoke to--I spoke to Colonel James Post. I spoke to--should I----

23 MJ [COL PARRISH]: You don't need to mention their names. I

1 think he's asking for numbers.

2 WIT [DR. WELNER]: Just numbers? All right, well, some of these
3 people don't have numbers.

4 MJ [COL PARRISH]: Well--no, not their numbers. Just the number
5 of people you talked to.

6 WIT [DR. WELNER]: Oh.

7 MJ [COL PARRISH]: I believe that was the question.

8 WIT [DR. WELNER]: I just need a moment then.

9 MJ [COL PARRISH]: Sure.

10 [The witness reviewed AE 351.]

11 WIT [DR. WELNER]: I have 20--20, 21.

12 **Questions by the assistant defense counsel, Major Schwartz,**
13 **continued:**

14 Q [MAJ SCHWARTZ]. Okay. 20, 21 people?

15 A [DR. WELNER]. Yes.

16 Q [MAJ SCHWARTZ]. And as a forensic psychiatrist, it's
17 important not just what you say, but it's important to take down
18 notes of what they say?

19 A [DR. WELNER]. Yes, sir.

20 Q [MAJ SCHWARTZ]. And it's important to make sure that you can
21 record and--and--what they're saying and--and their--you know--and
22 probe them for potential bias, and the like?

23 A [DR. WELNER]. Sure.

1 Q [MAJ SCHWARTZ]. Yet, when the defense requested all of the
2 notes from the people you spoke to, we were given six pages; two
3 pages from Doctor--from Mr. Sennis [sic], and four pages from the
4 Director of the JIG.

5 Where are the notes?

6 ATC [CAPT EASON]: Your Honor, I believe it's a
7 mischaracterization what the defense counsel just said. He requested
8 the notes of--Dr. Welner had conducted interviews of people that he
9 specifically relied on their interview for this.

10 Dr. Welner clearly as--Colonel Post, as you know, at the
11 suppression hearing, was here for that. I don't think that's--I
12 think Dr. Welner's numbers are off compared to what he just said.
13 And the question that he just had, sir.

14 MJ [COL PARRISH]: I don't know if they're off or not.

15 ATC [CAPT EASON]: Well, I will say, sir, that the--the
16 characterization that he just--he just gave--his request is
17 incorrect. And I can--I have the e-mails. I can--I can give the
18 court the e-mails as appellate exhibits.

19 MJ [COL PARRISH]: Why don't you ask the question again about
20 the number of people that Dr. Welner testified, and then ask him
21 whether he took any notes in talking to those people? Some he may
22 have, some he may not, and see what happens.

23

[END OF PAGE]

1 **Questions by the assistant defense counsel, Major Schwartz,**
2 **continued:**

3 Q [MAJ SCHWARTZ]. Dr. Welner, you interviewed 20, 21 people?

4 A [DR. WELNER]. Yes, sir.

5 Q [MAJ SCHWARTZ]. And did you take notes?

6 A [DR. WELNER]. I took notes when I spoke to people, yes.

7 Q [MAJ SCHWARTZ]. And where are those notes?

8 A [DR. WELNER]. I provided the notes to Captain Eason,
9 everything that he specifically asked me to give reflecting
10 specifically your exact request.

11 Q [MAJ SCHWARTZ]. So there were some notes that you took that
12 weren't given to the--to the defense?

13 A [DR. WELNER]. I gave Captain Eason everything he asked for.

14 Q [MAJ SCHWARTZ]. Okay.

15 A [DR. WELNER]. And he indicated to me that this is--this was
16 in response to your request.

17 ADC [MAJ SCHWARTZ]: Thank you, sir. I'm going to retrieve that
18 appellate exhibit, I believe it's 351, and hand it to the court
19 reporter.

20 And I have no further questions. I will--but I would like
21 just a minute to get this squared away, sir [gathering materials from
22 the podium].

23 MJ [COL PARRISH]: Certainly.

1 Government, do you have any redirect?

2 ATC [CAPT EASON]: Your Honor, may I just have 2 minutes in
3 place at the table, please?

4 MJ [COL PARRISH]: Certainly.

5 ATC [CAPT EASON]: Thank you, sir.

6 [The trial counsel conferred.]

7 ATC [CAPT EASON]: Thank you, Your Honor. I apologize.

8 **REDIRECT EXAMINATION**

9 **Questions by the assistant trial counsel, Captain Eason:**

10 Q [CAPT EASON]. Dr. Welner.

11 A [DR. WELNER]. Good afternoon.

12 Q [CAPT EASON]. Good afternoon, sir. I'm going to ask you
13 about four different areas real quick, Dr. Welner.

14 Regards to the peer review of your firm that you did not
15 utilize,----

16 A [DR. WELNER]. That's right.

17 Q [CAPT EASON]. ----is that a concern to you?

18 A [DR. WELNER]. It's always a concern.

19 Q [CAPT EASON]. Okay.

20 A [DR. WELNER]. You know, my preference is to peer review the
21 work--all the work that comes out of the practice. It's something
22 that we discussed. I expressed a concern about the whole issue with
23 security clearance and how that would interfere with the natural

1 course of affairs. There are cases in which we undertake and which--
2 in which peer review is not done.

3 It's not my preference. But let me underscore, I'm a
4 board-certified forensic psychiatrist who works on some of the most
5 sensitive cases in the United States today. The overwhelming
6 majority of my colleagues do not use peer review in their work. Some
7 have taken it on, and I'm very proud to have been the first person to
8 get this started. I think it's great for the field. I hope one day
9 we do it all the time, on every case, and perhaps even in one of
10 these tribunals. I do the best that I can to employ best practice
11 methodologies, and were I to have had the opportunity to have it peer
12 reviewed; of course, that's my preference. And I do the best that I
13 can in terms of my own internal oversight to be diligent, to be
14 objective, and to make conclusions that reflect the--the standards
15 that are available to me at the time.

16 Q [CAPT EASON]. Now, Dr. Welner, let's go to another area here.

17 Are you concerned that some of the press clippings that the
18 defense counsel read regarding Dr. Sennels would affect the clinical
19 observations and judgment that you'd relied on?

20 A [DR. WELNER]. No, in fact----

21 Q [CAPT EASON]. Please----

22 A [DR. WELNER]. ----I'll tell you.

23 Having read Doctor--all these press clippings, I can say

1 that that--that Dr. Sennels' work is actually more impressive than I
2 even gave him credit for it. It gave me any opportunity to actually
3 see where he was coming from. He has made a number of conclusions
4 based on certain political observations, but I think that if--if one
5 had, just like my transcript, the benefit of the entirety of the
6 article to read--the entirety of what I had read, then one can
7 appreciate that Dr. Sennels, what he had to offer about anger, what
8 he had to offer about remorse, what he had to offer about
9 introspection and personal responsibility, I think that it was
10 relevant. And it was also relevant to Mr. Khadr.

11 Again, just as an example of the sort of cherry picking
12 with one of the questions that had just come up only a couple of
13 minutes ago about Mr. Khadr and--in which a question came up of
14 whether he could be around Christians, the significance of that was I
15 didn't even ask him that. But he was so coiled, and he was so
16 calculated, and he was so ready for that question to come in that he
17 took me to a different area. I merely wanted to ask him, "What's it
18 like for you when you need to practice around people who don't share
19 the same beliefs?" Not whether you're willing to live with anyone.
20 I mean, look, there are Christians in Tehran. There are gays in
21 Tehran. While the leader there wants to destroy the world, and it
22 doesn't mean that you can't practice Christianity.

23 You know, just because somebody espouses a theocracy, it

1 doesn't mean that they're not aware or may even be friendly to people
2 practicing something else, as long as they are submissive. You know,
3 that's--and that's the way a theocracy would work. Now that's not a
4 reflection on Mr. Khadr. He's devout in his belief. I just wanted
5 to get a feel for him. That's all I was after. I wasn't after some
6 sort of adversarial question. I just wanted to get a sense, "Look,
7 Omar, you've been here; everybody around you is--can understand this
8 sort of devout thinking, but my awareness of the family and their
9 reaction to secular Toronto, which is with great distaste," I wanted
10 to get a sense of whether he had that same discomfort. That was
11 really all I wanted to get a sense of, of how he feels. It might be
12 different for him. But I wasn't, you know, "Are you willing to live
13 with this person or not?" It was nothing more than that.

14 Q [CAPT EASON]. Dr. Welner, would you please explain an
15 important distinction between forensic versus clinical interviews and
16 how that was relevant for Omar Khadr, given we've talked a lot about
17 your interview here?

18 A [DR. WELNER]. Well, again, I think that in--in--I don't know
19 that that necessarily informs--that specific exchange informs
20 clinical interviewing or forensic interviewing. Again, in clinical
21 interviewing, you--you are focused on symptoms. In forensic
22 interviewing, there are certain psychiatric legal issues that you may
23 want to get into, for which in a clinical setting may not necessarily

1 be important.

2 But you know what? If he was my patient, I would ask him
3 the same questions. I would say, you know, "Look, Omar, you're
4 contemplating a life change. You know, how's it going to be for
5 you?" I think that any clinician would ask that question. And
6 again--again, it may be something that he feels defensive about given
7 the proceedings. And I didn't--you know, I didn't hold that against
8 him. I experienced his defensiveness. There were times in which he
9 lied to me. But again, I took it in the context of the important
10 thing just specifically being that I wanted to learn what I could.
11 And I learned what I could.

12 Q [CAPT EASON]. And, Doctor, did you take into consideration
13 all the statements the defense counsel had just read to you and that
14 you actually remembered----

15 A [DR. WELNER]. I did.

16 Q [CAPT EASON]. ----in reaching your opinion?

17 A [DR. WELNER]. And again, let me make something clear. I'm
18 not saying I didn't remember. I'm saying that given the frequency
19 with which I was misquoted, or my words slightly twisted in order to
20 manipulate the listener, my point was that I just wanted the
21 opportunity to see exactly what I said and how I said it, how it was
22 responded to; that's all.

23 Q [CAPT EASON]. I understand.

1 A [DR. WELNER]. Which is nothing more than just handing me a
2 piece of paper, so I can say, "Yes, I said that," and "Yes, he said
3 that in return."

4 Q [CAPT EASON]. Let me ask you about--and I didn't have an
5 opportunity to read that. Please put into context the--it's page 179
6 to 180 in the transcript, Appellate Exhibit, I believe it was 347, is
7 that--347--Appellate Exhibit 347.

8 Could you please explain the context of that to the
9 members?

10 A [DR. WELNER]. I've got to get--I've got to get it again.

11 ATC [CAPT EASON]: Permission to approach the court reporter,
12 Your Honor?

13 MJ [COL PARRISH]: Sure.

14 WIT [DR. WELNER]: Without having to answer for what I've
15 forgot.

16 ATC [CAPT EASON]: Yes.

17 [The assistant defense counsel approached the court reporter and
18 retrieved AE 347.]

19 ATC [CAPT EASON]: May I approach the witness, sir?

20 MJ [COL PARRISH]: Sure.

21 ATC [CAPT EASON]: I'm handing the witness Appellate Exhibit
22 347, a two-page document.

23 WIT [DR. WELNER]: [Reviewing AE 347.] No, this is--this is

1 what I had just been discussing, page 179 and page 180; that's what I
2 was talking about.

3 ATC [CAPT EASON]: My mistake.

4 WIT [DR. WELNER]: I answered this already.

5 ATC [CAPT EASON]: Permission to approach the witness, sir?

6 MJ [COL PARRISH]: Sure.

7 [The assistant trial counsel retrieved AE 347 from the witness.]

8 ATC [CAPT EASON]: I apologize; handing it back to the court
9 reporter.

10 **Questions by the assistant trial counsel, Captain Eason, continued:**

11 Q [CAPT EASON]. All right. Dr. Welner, let me ask you this
12 question.

13 Anything about the cross-examination changed your opinion,
14 and if yes, why; if no, why?

15 A [DR. WELNER]. No. No. My opinion is as it is. My opinion
16 is that Omar Khadr is a high risk of dangerousness, not because he's
17 devout. Not because he's Muslim. But because he is a person who has
18 a history of murder; member of al Qaeda; well-trained from al Qaeda
19 royalty; and from a family that is highly-radicalized, dependent upon
20 him assuming a leadership position within the family, encouraging and
21 contributing to his self-esteem; a family whom he has most closely
22 identified with, relative to anyone in the world; people that he
23 has, to some degree, identified with, although of an uncertain

1 amount; people that he is a block-leader for that he is alongside
2 every day; and people who are highly-radicalized, hardened, and with
3 different degrees of belligerence towards the United States.

4 There are--he has the inspiration. He has the
5 infrastructure. He has the skills. He has the ignition of
6 sympathetic propagandists to contribute mightily to elevating the
7 stature of al Qaeda within North America. And--and given its
8 destructive aims, whether it is al Qaeda or some other affiliated
9 group, that is the basis of my opinion that he is highly dangerous.

10 With all deference to Mr. Khadr, while he has a history of
11 murder, and for some people that history would be reason to say that
12 someone is at risk of future violence. It is my professional opinion
13 that the greatest basis, the strongest basis for his future risk, is
14 actually more in his capacity to inspire and to be incendiary to
15 those who are connected to him, not by raising his voice, but by how
16 he is manipulated by other people who are part of the broader
17 enterprise than his hands-on work.

18 And that is my opinion.

19 ATC [CAPT EASON]: Thank you very much, Doctor.

20 MJ [COL PARRISH]: Any re-cross?

21 ADC [MAJ SCHWARTZ]: No, Your Honor.

22 MJ [COL PARRISH]: Members, have any questions?

23 [A positive response from the members.]

1 MJ [COL PARRISH]: Apparently so.

2 Bailiff, pick up the questions from the members, please.

3 BAILIFF: Yes, sir.

4 [The bailiff retrieved all the member questions, had them reviewed by
5 defense counsel and trial counsel, and handed them to the court
6 reporter to be marked.]

7 [The court reporter marked the documents as Appellate Exhibits 352
8 and 358.]

9 **EXAMINATION BY THE MILITARY COMMISSION**

10 **Questions by the military judge, Colonel Parrish:**

11 Q [COL PARRISH]. Okay. Appellate Exhibit 353 is from Member
12 Number 10.

13 Dr. Welner, what was Mr. Khadr's custodial environment for
14 the last 8 years? To the extent that you know.

15 A [DR. WELNER]. Camp IV, for at least the most recent history,
16 a pod environment in which people have an--people go into their
17 individual cells when they are in downtime, but when they're not in
18 their downtime for--is there any classification restriction on this?

19 Q [COL PARRISH]. If there is, someone's going to buzz me. And
20 I've got no buzzer, so keep going.

21 A [DR. WELNER]. Okay.

22 Wherefore 20 hours out of the day, the detainees interact
23 with one another as--it's a wide open space.

1 Q [COL PARRISH]. Dr. Welner, I think as long as you keep it
2 generally speaking, that we'll be okay.

3 A [DR. WELNER]. All right.

4 Play sports, hangout, talk, walk around, but--without
5 walls; pretty open and--and just--a--akin to a big open area.

6 Q [COL PARRISH]. And, sir, do you know what the rules and
7 conditions of his--what the rules of his incarceration were?

8 A [DR. WELNER]. I feel like I'm beyond my expertise. I think I
9 can--what I----

10 MEMBER 12: I didn't realize----

11 A [DR. WELNER]. I'm sorry?

12 MEMBER 12: I didn't realize these were just for Dr. Welner, so--
13 ---

14 MJ [COL PARRISH]: Oh, okay. These are questions you may want
15 have answered from--okay.

16 MEMBER 12: Yes.

17 MJ [COL PARRISH]: Okay, then, Counsel, please keep that in
18 mind.

19 And, Counsel, can address these with other witnesses so--
20 all right. That's fine.

21 **Questions by the military judge, Colonel Parrish, continued:**

22 Q [COL PARRISH]. Appellate Exhibit 354 is from Member Number 9.
23 Sir, in terms of source material, time spent with Mr.

1 Khadr, people you'd talked to, etcetera; how would you compare the
2 depth of your risk of dangerousness assessment in this case with
3 others you have performed?

4 A [DR. WELNER]. The average amount of time that one would spend
5 in a--in a risk assessment interview, in some cases may actually be
6 less than that. However, I want to clarify that when I sat down with
7 Mr. Khadr the purposes of my interview actually encompassed several
8 matters that were happening in a pretrial settings, so many of my
9 questions did not relate, at all, to questions that would inform
10 risk. The request for me to inform the attorneys about risk matters
11 came up after my interview with him. And so I relied upon
12 information that I drew from that interview, but the interview wasn't
13 set up for that purpose. It was actually set out for something else.

14 Customarily, depending on the individual and also depending
15 on the actuarial measures used for example, we mentioned the PCL-R,
16 the Psychopathy Checklist. The Psychopathy Checklist, which assesses
17 for whether someone is psychopath, in certain risk assessment
18 measures it is an important component. And you can draw information
19 for it from outside sources of information, but your--your best
20 practices are to inform however you can at least with the examinee.
21 And when you do something like a Psychopathy Checklist, it may extend
22 an interview, in and of itself, by an hour, an hour and a half, just
23 the measure alone.

1 And there are several different kinds of measures. There's
2 another measure called the LSI, which is a lot of questions and
3 information that you would have to derive from an examinee. So the
4 best answer is when you use actuarial measures in risk assessments,
5 the examinations are on the longer side of 8 hours. When you don't
6 use them, they're on the shorter side and frequently even less than 7
7 hours.

8 Q [COL PARRISH]. Along the same vein, Appellate Exhibit 355 is
9 from Member Number 12.

10 How extensive has your study of this case been in research,
11 documentation, and interviews, compared to your other patients in the
12 criminal realm you've worked with?

13 A [DR. WELNER]. Well, I'd mentioned the--the *Smart* case, as a
14 frame of reference, that I've already introduced to the jury. I
15 believe I've spent over 1200 hours on that case to date. I think it
16 really depends on the issues that come up. There are some cases in
17 which you may be involved in, in which the totality of your work is
18 no more than 30, 40, 50 hours. It really depends on--on what's
19 involved.

20 The complexity of this case introduced issues that, when
21 Captain Eason first called me, I never envisioned being involved in,
22 and there were issues that were brought to my attention that I
23 responded to Captain Eason that wasn't part of my qualifications and

1 somebody else needed to be involved. So the--the jury in this case
2 has had a lot to do with the amount of time that I've been involved
3 in because there had been several issues brought to my attention for
4 evaluation.

5 Q [COL PARRISH]. Now, Appellate Exhibit 356 is also from Member
6 Number 12.

7 Sir, percentage wise, how often do you testify as a witness
8 of the prosecution?

9 A [DR. WELNER]. I would say that in recent years, and I've
10 mentioned that I testified probably 2 to 4 times a year, and probably
11 50 percent of the time I'm testifying in civil matters. So I would
12 say that I testify probably once or twice a year, and in the last
13 couple years, I've only testified at the request of the prosecution.
14 I want to underscore, I may have mentioned this before. I may have
15 mentioned it to Mr. Schwartz when we sat down earlier, that I have,
16 for example, consulted on insanity cases in a defense capacity. And
17 only one time in--if I rendered an opinion that the individual was
18 legally insane, did I ever have to go to court to testify. The other
19 times, the defense attorneys got together with the prosecutors, they
20 agreed and the case went away.

21 And so, in the great majority of my experiences in defense
22 work, the cases resolve and I don't have to go to court to testify
23 because both sides agree. When both sides don't agree, they get it

1 on in court, and that's how I end up testifying in the capacity as a
2 prosecution witness here and in the other case that I had told you
3 about.

4 Q [COL PARRISH]. But, sir, whether you'd testified or not, the
5 percentage that you've been consulted for by the prosecution versus
6 consulting work for the defense, what would that be?

7 A [DR. WELNER]. Over the course of my professional career, I've
8 been consulted approximately 60 percent of the time by prosecution,
9 approximately 40 percent of the time by defense.

10 In all openness to the--to the members, I would say that in
11 the past couple of years that that percentage has changed. It has
12 been more to the prosecution that in--over the past couple years, I
13 have been consulted by prosecutors probably 70 percent of the time
14 rather than 60 percent.

15 Q [COL PARRISH]. Appellate Exhibit 357 is also from Member
16 Number 12.

17 Sir, do you have any friends, relatives, or acquaintances,
18 or any patients who lost any relatives, or friends, or acquaintances
19 in the twin tower bombings on 9/11?

20 A [DR. WELNER]. Well, you live in New York City, you're--you
21 are one degree of separation, but no. I have--I'm sorry, who asked
22 that question?

23 Q [COL PARRISH]. It doesn't matter.

1 A [DR. WELNER]. Okay. I--you know, in New York City, you're
2 one degree of separation, and--and I was in New York City on 9/11. I
3 was in my office. I was not down at Ground Zero, but I have memories
4 as many other New Yorkers do. I did not lose a relative. I have
5 treated patients who were affected by 9/11. I also treated patients
6 who were affected by World Trade Center I.

7 Many people don't remember that there were many people who
8 were injured when there was an attempt to destroy the World Trade
9 Center in 1993. And I have had patients who had post traumatic
10 stress disorder as a result of that experience. And I have treated
11 rescue workers who have had emotional injuries in the aftermath of
12 that.

13 So my proximity to 9/11 has been as a clinician and
14 occasionally as a forensic practitioner. I was appointed by a judge
15 on one case to actually decide competency to wed question over a
16 dispute of death benefits. And again, this is an example of a
17 frontier issue that doesn't have to involve crime but certainly
18 involved a forensic psychiatric matter, and it was directly connected
19 to someone who had died in 9/11.

20 Q [COL PARRISH]. Sir, same question with Appellate Exhibit 357
21 but with regards to anyone killed or injured in Iraq or Afghanistan?

22 A [DR. WELNER]. I have had patients who have had relatives who
23 have died, and that is my closest. I have not had family in Iraq.

1 The closest that I get to it, are friends of mine who have served,
2 but they themselves have not been injured. And in terms of my
3 relationship to death in the combat theater, I have had patients who
4 have lost loved ones.

5 MJ [COL PARRISH]: Okay, and Appellate Exhibit 358 from Number
6 12.

7 As I explained earlier, the Rules of Evidence applied to
8 questions by members as well as counsel, so I'm not going to be
9 asking that particular question.

10 Appellate Exhibit 352 is from Number 6, and I need to have
11 a hearing with counsel on that. So I'll--we'll--I'll get back to you
12 on a response to that. So there's no response to that right now.

13 Okay? Any other questions by members?

14 [Negative response by the members.]

15 MJ [COL PARRISH]: Apparently not.

16 May this witness be excused for today?

17 ATC [CAPT EASON]: Yes, sir. Well--yes, sir. He's excused.
18 Yes, sir.

19 MJ [COL PARRISH]: Permanently to leave island?

20 ATC [CAPT EASON]: No, sir.

21 MJ [COL PARRISH]: Oh, sorry. I tried. I tried.

22 ATC [CAPT EASON]: Temporarily excused.

23 WIT [DR. WELNER]: Thank you, Your Honor.

1 MJ [COL PARRISH]: Stay on island, thank you.
2 WIT [DR. WELNER]: Thank you.
3 MJ [COL PARRISH]: Thanks, Dr. Welner; I appreciate it.