

1 [REDACTED]: Exhibit 6, Page 2, which is  
2 the e-mail, [REDACTED] e-mail?

3 MR. DANIELS: Yes.

4 [REDACTED]: Is a continuation page of  
5 what document?

6 MR. DANIELS: Page 2 document.

7 [REDACTED]: Well, the Page 2 document  
8 is the [REDACTED] e-mail. I'm trying to  
9 understand what it is a continuation of.

10 MR. DANIELS: I believe it was submitted  
11 as part of this e-mail. It was part of the fax,  
12 but exactly what page it was, I don't know. I'm  
13 confused now.

14 [REDACTED]: But, you believe --

15 MR. DANIELS: It was part of the  
16 transmission.

17 [REDACTED]: But, you believe that Page  
18 4 of 15 was part of the transmission from DCMA  
19 that is marked Exhibit 6, is that correct?

20 MR. DANIELS: Right. Yeah, and dated  
21 May 28th, '03.

22 [REDACTED]: Thank you. Can you explain  
23 what the data is that's contained on what's Page 4

1 of 15, that's included as part of Exhibit 7?

2 MR. DANIELS: Those appear to be the  
3 serial numbers of the items that were shipped from  
4 the HIMARS Contract to Red River.

5 [REDACTED]: Are you aware of how that  
6 Page 4 became attached to the PCOs 15 October 2002  
7 letter, the PCO being [REDACTED]?

8 MR. DANIELS: Right. It was part of the  
9 original fax -- it was originally a part of  
10 Exhibit 6. I must have pulled it out to use for  
11 another purpose.

12 [REDACTED]: So, you are indicating you  
13 believe it was part of the fax that DCMA sent to  
14 you that is now Exhibit 6?

15 MR. DANIELS: And I would have married  
16 them together for some other purpose.

17 [REDACTED]: And, you stapled that page  
18 4 and 5?

19 MR. DANIELS: And a duplicate page by  
20 mistake.

21 [REDACTED]: To [REDACTED] 15  
22 October 2002 letter?

23 MR. DANIELS: Yes.

1           [REDACTED] [REDACTED]: And why did you staple  
2 those documents together?

3           MR. DANIELS: So, I would have a track  
4 of what was actually shipped pursuant to that  
5 letter and these shipping documents.

6           [REDACTED] [REDACTED]: How did you conclude that  
7 what was shipped pursuant to the 15 October 2002  
8 letter from [REDACTED] was, in fact, those  
9 part numbers and serial numbers that you did  
10 attach to a letter?

11           MR. DANIELS: By comparing the serial  
12 numbers on the actual shipping documents and to  
13 that attachment. It may be time to eat.

14           [REDACTED] [REDACTED]: Okay, bear with me one  
15 moment and then we'll break for lunch,  
16 Mr. Daniels. I believe I have finished up with  
17 what I intended to cover on the fire control  
18 system. I just have one question going back to  
19 the VECP allegation that we discussed yesterday,  
20 Allegation 2.

21           MR. DANIELS: Yes.

22           [REDACTED] [REDACTED]: We were discussing  
23 royalties and royalty payments that were reflected

1 in the modification that deal with that VECP, if  
2 you recall, is that correct?

3 MR. DANIELS: Yes.

4 [REDACTED] On Page 5 of the Office of  
5 Special Counsel referral letter of 20 August 2003  
6 letter, it appears in the middle of the last  
7 paragraph pertaining to Allegation 2. I'll read  
8 the sentence of the allegation on Page 5 of the  
9 OSC Counsel 20 August 2003 letter.

10 MR. DANIELS: Yes.

11 [REDACTED] It appears in the middle of  
12 the last paragraph, pertaining to Allegation 2, it  
13 reads as follows: "As a result, Lockheed Martin  
14 has demanded and received from the Government a  
15 production royalty payment of \$5,000 per rocket  
16 pod delivered.

17 "By way of example, Mr. Daniels alleges  
18 that, in January 1996, the Government approved  
19 future royalty payments to Lockheed Martin of  
20 \$393,400.00 via modification P00260 to Contract  
21 DAAH01-89-C-0336."

22 Can you clarify for me that portion of  
23 your allegation wherein the Government approved a

1 future royalty payment of \$393,400.00?

2 MR. DANIELS: That would be in the mod,  
3 itself. I believe there is as copy of it  
4 somewhere.

5 [REDACTED]: Yes, it is included in the  
6 Army Report. I believe it's mod 241 at Tab 14.  
7 Is that what this allegation is referring to?

8 MR. DANIELS: Yes. The amount is listed  
9 at Paragraph A-5 of the modification.

10 [REDACTED]: And what is your  
11 understanding of the phrase, "royalty payment"?

12 MR. DANIELS: I am reading from A-5 of  
13 the modification, second sentence. "The  
14 Government will issue another modification in the  
15 amount of \$393,400.00 to reflect the contractor  
16 share of, 'Future Royalty Contract,' savings for  
17 the FMS quantities."

18 [REDACTED]: So, what's your  
19 understanding of what's the \$393,000 was  
20 compensating Lockheed Martin for?

21 MR. DANIELS: It says exactly, "To  
22 reflect the contractor share of, 'Future Royalty  
23 Contract,' savings for the FMS quantities".

1 [REDACTED] And, would you consider  
2 that to be a royalty?

3 MR. DANIELS: It says, "'Future Royalty  
4 Contract,' savings."

5 [REDACTED] Right. Would you consider  
6 that to be a royalty payment?

7 MR. DANIELS: If they used the word  
8 royalty, I'm pretty sure that's what it means.

9 [REDACTED] Okay. Thank you. Why  
10 don't we break for lunch now. I believe that's  
11 consistent with your desires.

12 MR. DANIELS: Yes.

13 [REDACTED] And, what time will you be  
14 able to reconvene, Mr. Daniels?

15 MR. DANIELS: One o'clock will be fine.

16 [REDACTED] Okay, we will reconvene at  
17 1300. Thank you.

18

19 (Lunch recess.)

20

21 [REDACTED] This is [REDACTED]. It is  
22 1300 on Wednesday, 15 July with continuing the  
23 interview with Mr. Clarence Daniels.

1           Clarence, just to back up for one minute  
2 on the FCS discussion we were having just before  
3 lunch. Can you explain or describe to me again  
4 why you believe the Army is owed five FCS systems  
5 at no cost?

6           MR. DANIELS: The five launchers that  
7 were delivered in accordance with the 15 October  
8 02 letter written by [REDACTED] authorized  
9 Lockheed Martin to ship launchers, five launchers,  
10 up to five launchers or eight, I can't remember,  
11 lacking their fire control systems.

12           They did, in fact, ship them that way  
13 and they were received at Red River, according to  
14 the DD-250s lacking fire control systems. Now,  
15 since we paid in full for launchers with fire  
16 control systems, Lockheed Martin would now owe the  
17 Government, sometime in the future, five fire  
18 control systems at no additional cost to the  
19 Government. We've already paid for them, but they  
20 were not delivered.

21           What I have been looking for the last  
22 eight, six, eight years, was the shipping  
23 documentation when Lockheed finally delivered

1 those fire control systems that were shipped short  
2 in accordance with that letter. That  
3 documentation has never appeared.

4 [REDACTED] Is it your understanding we  
5 paid for those in full, including the FCS price  
6 and then after we accepted and paid in full, that  
7 the five FCSs were taken off those launchers and  
8 shipped without them?

9 MR. DANIELS: According to the letter,  
10 they were taken at the point of acceptance off  
11 those launchers, according to the letter.

12 [REDACTED] Yes. And what happened, to  
13 the best of your knowledge, with the five FCS  
14 systems that were taken off the launchers before  
15 they shipped to Red River?

16 MR. DANIELS: That's the seven and a  
17 half million dollar audit trail that the  
18 Government or Lockheed Martin has yet to produce.  
19 Where is the shipment documentation where the  
20 Government finally accepted those shipped short,  
21 five each fire control systems?

22 [REDACTED] So, if I understand it,  
23 those are the five FCS systems that you believe



1 were never shipped to the Government, but for  
2 which we paid and therefore we should still be  
3 owed those five systems at no additional costs?

4 MR. DANIELS: Specifically under  
5 Contract Number DAAH01-00-C-0109.

6 [REDACTED] Okay. Thank you. Turning  
7 now to the sixth allegation, rotatable spares. That  
8 issue deals with the '94 launcher contract?

9 MR. DANIELS: Yes.

10 [REDACTED] I believe, and just correct  
11 me if I am wrong, that you indicated that you were  
12 the Contract Specialist for some period of time on  
13 that contract?

14 MR. DANIELS: Yes.

15 [REDACTED] And, what period of time,  
16 visa vis the modification that placed the  
17 warranty, the revised warranty clause on that  
18 contract, were you the Contract Specialist, do you  
19 recall? Were you the Contract Specialist at the  
20 time the modification was issued that had the  
21 revised warranty, from the factory?

22 MR. DANIELS: You mean PZ008?

23 [REDACTED] Exactly.

1 MR. DANIELS: Yes.

2 [REDACTED]: So, you were a Specialist  
3 at the time?

4 MR. DANIELS: Yes, I was. As a matter  
5 of fact, my name appears on the mod paper.

6 [REDACTED]: Okay. I want to ask you  
7 some questions now to make sure I understand what  
8 the nature of the allegation and the objections  
9 are to the issues surrounding the rotatable spares.

10 Can you just discuss with me what the  
11 nature of that objection is in terms of the  
12 rotatable spares? What do you believe was improper  
13 or unauthorized?

14 MR. DANIELS: The mod in question, which  
15 is PZ0008, specifically reserved to the Government  
16 the remedies and the invocation of the warranty  
17 under that contract. The contractor had no  
18 authority whatsoever in the modification to  
19 administer the warranty without the Government  
20 invoking the warranty.

21 Those parts were used illegally by  
22 Lockheed Martin without the permission in  
23 accordance with the contract. Since we bought

1 brand new rotatable warranty spares under the  
2 modification and, according to Lockheed they only  
3 invoked the warranty twice and used approximately  
4 two or three parts.

5           Since we bought and paid for new rotatable  
6 spares under that contract, on a firm fixed price  
7 basis, at the end of the warranty period, all the  
8 residual warranty spares identified in that  
9 Attachment 11 would become property of the  
10 Government.

11           And since the Government never invoked  
12 the warranty provision under that contract, which  
13 would have authorized Lockheed Martin to utilize  
14 those warranty spares listed on the Attachment 11,  
15 they should be either in new or like new  
16 condition. But, once an inventory of the warranty  
17 spares were done after the warranty period, some  
18 of the parts were still in new condition, but many  
19 of them were not. They had been used without  
20 authorization of the Government.

21           In accordance with the warranty  
22 provisions of that contract, requirements of that  
23 contract. The contractor owed us either new or

1 like new warranty spares.

2 [REDACTED] So, if I understood you  
3 correctly, the fact that the KO, the Contracting  
4 Officer did not authorize under the terms of the  
5 warranty provision, Lockheed Martin --

6 MR. DANIELS: Used the warranty --

7 [REDACTED] Used the warranty spares,  
8 that was improper on the Lockheed Martin part, had  
9 they used them?

10 MR. DANIELS: Yes.

11 [REDACTED] And, how do you know, upon  
12 what basis have you concluded that the Contracting  
13 Officer did not authorize Lockheed Martin to use  
14 the spares during the course of the contract.

15 MR. DANIELS: It would have required a  
16 written notification in accordance with the  
17 warranty requirements. And, I specifically asked  
18 Lockheed Martin to provide any invocation of that  
19 warranty provision by any Contracting Officer that  
20 ever worked on that contract, and they have not  
21 provided any.

22 [REDACTED] Did you ask the Contracting  
23 Officer, who was the Contracting Officer on that

1 contract, whether he or she had, in fact,  
2 authorized the use of that warranty?

3 MR. DANIELS: No, to the best of my  
4 knowledge, they even knew that the warranty had  
5 ever been invoked.

6 [REDACTED]: Did you ask the Contracting  
7 Officer?

8 MR. DANIELS: No.

9 [REDACTED]: Who was it?

10 MR. DANIELS: Well, there were several  
11 different ones.

12 [REDACTED]: And that would be?

13 MR. DANIELS: [REDACTED], [REDACTED]  
14 there was [REDACTED]. It was a succession of  
15 Contracting Officers under that contract.

16 [REDACTED]: And, if the Contracting  
17 Officer had authorized the use of the warranty?

18 MR. DANIELS: It would have been in  
19 writing and there would have been an auditable  
20 trail of that back to that Contracting Officer.

21 [REDACTED]: Did you indicate just now  
22 that you did not ask any of those three  
23 individuals?

1 MR. DANIELS: No, I asked Lockheed  
2 specifically for the authorization that they had.  
3 Any authorization from any Contracting Officer  
4 invoking the warranty.

5 [REDACTED]: Why didn't you ask any of  
6 the three Contracting Officers?

7 MR. DANIELS: Because, like I said,  
8 there is a succession of Contracting Officers that  
9 handled that contract. I would have to ask every  
10 single one of them for over a period of over ten  
11 years and it's just not practical.

12 [REDACTED]: Well, who was the  
13 Contracting Officer at the time you first became  
14 aware of the issue that Lockheed Martin had  
15 improperly used the warranty?

16 MR. DANIELS: It would have been [REDACTED]  
17 [REDACTED]

18 [REDACTED]: But, you didn't ask [REDACTED]  
19 [REDACTED]

20 MR. DANIELS: No.

21 [REDACTED]: Why didn't you ask [REDACTED]  
22 [REDACTED]

23 MR. DANIELS: I didn't ask her

1 specifically, but she was aware that, of the  
2 situation that I had with Lockheed on recovering  
3 those individual warranty spares.

4 [REDACTED] So, the Contracting  
5 Officer, [REDACTED] was aware of your concern  
6 that Lockheed Martin was using the rotatable spares  
7 under the warranty without Contracting Officer  
8 written authorization?

9 MR. DANIELS: Yeah, written  
10 authorization.

11 [REDACTED] Do you know what, if  
12 anything, [REDACTED] did about that concern when  
13 you expressed it to her?

14 MR. DANIELS: Well, keep in mind, that  
15 was never really confirmed until after the audit  
16 was done by the DCMC Office of the rotatable spares  
17 giving the exact condition of the residual spares.

18 [REDACTED] Is that audit a part of the  
19 Army report?

20 MR. DANIELS: Yeah, and should have been  
21 part of the allegations I sent with the OSC, yes.

22 [REDACTED] Are you aware of where that  
23 document is in the Army report?

1 MR. DANIELS: No, but I can provide it  
2 if it is not in there, I can provide that.

3 [REDACTED]: Okay, thank you. You  
4 mentioned that, and maybe that was in terms of the  
5 audit that you just talked about, that it was  
6 shown that the warranty was only invoked twice.  
7 Did that come to your attention as a result of  
8 this audit that was done?

9 MR. DANIELS: No, that came as a result  
10 of me asking Lockheed to tell me whether or not  
11 the warranty was ever invoked under that contract.

12 [REDACTED]: Did they tell you that  
13 verbally or in writing?

14 MR. DANIELS: I think there was a  
15 letter.

16 [REDACTED]: And do you know --

17 MR. DANIELS: It should be part of the  
18 file, but, if not, I should be able to furnish you  
19 a copy of it.

20 [REDACTED]: Good. Is an attachment to  
21 the modification that I believe you said you  
22 actually executed in the report, and it's an  
23 attachment of a listing of spares?



1 MR. DANIELS: Attachment 11, yes.

2 [REDACTED] Can we turn to that, I  
3 believe, it's Tab 43B, which is the last tab in  
4 Army Report Number 1?

5 MR. DANIELS: (Witness complying with  
6 request.)

7 [REDACTED]: I believe it's at the end  
8 of this volume here, it's attachment 11 you were  
9 mentioning, Mr. Daniels?

10 MR. DANIELS: Yes.

11 [REDACTED]: Oh, you have it, great.  
12 And, did you prepare or generate or otherwise --

13 MR. DANIELS: I prepared all of this.

14 [REDACTED]: And this is an attachment  
15 to your modification?

16 MR. DANIELS: Yes.

17 [REDACTED]: Can you walk me through  
18 what the information on this two page attachment  
19 means? The left hand column is a listing of  
20 numbers and those are part numbers?

21 MR. DANIELS: Part numbers.

22 [REDACTED]: Of spare parts?

23 MR. DANIELS: Yes.

1                   ██████████: And the right hand column  
2 is --

3                   MR. DANIELS: The quantities.

4                   ██████████: The quantities. In some  
5 cases, if I'm reading this correctly, there are  
6 part numbers identified, but no quantities?

7                   MR. DANIELS: Right.

8                   ██████████: Why is that?

9                   MR. DANIELS: Only the ones bearing the  
10 asterisk are rotatable spares.

11                   ██████████: And, the name above the  
12 column on the left side, Glenair, Teledyne,  
13 GEC - Marconi, et cetera, as you go down the left  
14 hand side.

15                   MR. DANIELS: Those are the  
16 subcontractors that are the suppliers of those  
17 parts.

18                   ██████████: And they supplied those  
19 parts to Lockheed Martin under this contract?

20                   MR. DANIELS: Lockheed Martin, yes.  
21 And, the origin of this document, it's been  
22 modified straight from the building materials  
23 provided in support of Lockheed Martin's proposal

1 for the contract. These are modified pages out of  
2 the building materials.

3 [REDACTED]: Okay, thank you. Now, you  
4 mentioned that, to the best of your knowledge,  
5 there were two instances when Lockheed Martin was  
6 authorized?

7 MR. DANIELS: Even at that point -- you  
8 would have to see the letter. But there were no  
9 Contracting Officers authorization to invoke the  
10 warranty that Lockheed provided. But Lockheed did  
11 provide where they apparently on their own invoked  
12 the warranty.

13 [REDACTED]: And, they notified the  
14 Contracting Officer?

15 MR. DANIELS: No, I never knew this  
16 existed until I asked the question. And, all of  
17 this occurred during the period where the warranty  
18 was expiring and I knew the residual spares were  
19 going to become Government property at that point  
20 and I wanted to make provisions to have those  
21 parts transferred to another contract where they  
22 could be used to prevent their duplication on  
23 another follow-on contract.

1           ██████████: Do you know whether any of  
2 the Contracting Officers, ██████████, you  
3 mentioned, ██████████ and ██████████, whether  
4 or not they delegated their authority to authorize  
5 the use of the spares?

6           MR. DANIELS: No, I'm not even sure they  
7 were even aware that it was a warranty in the  
8 contracts themselves.

9           ██████████: Why would you doubt that a  
10 Contracting Officer was aware of a warranty  
11 provision in a contractor they were responsible  
12 for.

13           MR. DANIELS: It says evidently, there  
14 were no field failures which was required to  
15 notify the Contracting Officer the remedy during  
16 this time period, that they would have no reason  
17 to think there was a warranty on the particular  
18 parts. Remember we are talking about transit  
19 Contracting Officers. It wasn't there very long  
20 at all.

21           ██████████: How long was ██████████  
22 there?

23           MR. DANIELS: I would believe from

1 2000 -- no, 1999 to maybe 2003, 2004.

2 [REDACTED] [REDACTED]: So, about five or six  
3 years?

4 MR. DANIELS: Right, but this contract  
5 was nearing -- this particular contract was  
6 nearing its completion and it was near the end of  
7 the warranty period.

8 [REDACTED] [REDACTED]: There's some mention in the  
9 allegation regarding the use of spares for FMS  
10 purposes. I don't recall you just mentioning that  
11 now, but is that an aspect of the allegation that  
12 you're concerned about?

13 MR. DANIELS: Yes, that particular  
14 allegation came from a page out of Engineering  
15 Services Contract quarterly reports on activities  
16 done under the Engineering Services Contract.  
17 And, it's stated that those spares were going to  
18 be used to support FMS customers.

19 [REDACTED]: I'm sorry, and where did  
20 you see that report?

21 MR. DANIELS: It was in the IES  
22 quarterly progress report or cost report.

23 [REDACTED]: Prepared by whom?

1 MR. DANIELS: Lockheed Martin.

2 [REDACTED]: And, submitted to whom?

3 MR. DANIELS: The Project Manager's  
4 Office.

5 [REDACTED]: And, you came to see that  
6 in the course of your duties as a Contract  
7 Specialist?

8 MR. DANIELS: Right. And, as part -- in  
9 some cases, the documents are sent both places,  
10 both the Project Office and the copies sent to the  
11 Contracting Officer.

12 [REDACTED]: And, so did you see the  
13 Lockheed Martin report then while you were the  
14 Specialist on this?

15 MR. DANIELS: Yes. I listed those pages  
16 from that report.

17 [REDACTED]: When was that, do you  
18 recall?

19 MR. DANIELS: It was -- that was during  
20 the time frame when I was investigating the [REDACTED]  
21 [REDACTED] -- let me see, when was that, when was the  
22 date of that fax?

23 [REDACTED]: May of 2003, I believe.

1 MR. DANIELS: It would be in that 2000  
2 time frame.

3 [REDACTED]: The 2003 time frame?

4 MR. DANIELS: Yes.

5 [REDACTED]: And, at that time, what  
6 action, if any, did you take, when it came to your  
7 attention?

8 MR. DANIELS: I reported it to the OSC,  
9 as part of my allegations.

10 [REDACTED]: And, you said you did not  
11 bring it to the attention of the Contracting  
12 Officer?

13 MR. DANIELS: I didn't specifically  
14 bring it to the attention, but the whole issue of  
15 the residual warranty spares becoming property of  
16 the Government at the end of the warranty period  
17 was being handled by me in coordination with the  
18 Contracting Officer, [REDACTED], and the DCMC  
19 Office at Lockheed.

20 [REDACTED]: When you say, "In  
21 coordination with [REDACTED]" what type of  
22 coordination did you have because I thought you  
23 said you didn't think she was even aware that

1 there was a warranty provision in the contract?

2 MR. DANIELS: Right. What happened,  
3 once I started investigating this thing about  
4 receiving the warranty spares at the end of the  
5 warranty period, and I found out that these things  
6 had been used without authorization, then I got a  
7 requirement from the Project Office to box these  
8 things up and ship them to Iraq.

9 And, I thought that was strange because  
10 they were M270 parts.

11 [REDACTED]: I'm sorry, they were what?

12 MR. DANIELS: M270 Launcher parts, not  
13 M270A1 Launcher parts, so I thought that was  
14 strange.

15 [REDACTED]: Excuse me, the record may be  
16 unclear. You said, "these things", what are these  
17 things?

18 MR. DANIELS: These warranty spares.  
19 All the residual warranty spares. That's when I  
20 got her involved because she would have to sign  
21 the letter or to contact an officer or to delegate  
22 it to somebody to sign the letter to authorize  
23 shipment of these spares to Iraq from that



1 contract.

2 [REDACTED] [REDACTED]: When you spoke to her about  
3 that, did you raise your concerns as you've just  
4 expressed them to me now?

5 MR. DANIELS: Yeah, the best I could.

6 [REDACTED]: And what was her response  
7 or reaction to that?

8 MR. DANIELS: I would have to go back,  
9 it's been a long time. I'd have to go back and  
10 read e-mails because there was some e-mails  
11 involved.

12 [REDACTED] [REDACTED]: If you have those e-mails,  
13 if you could provide those to us again, we would  
14 appreciate it.

15 MR. DANIELS: Yeah, I'm sure, they're  
16 probably part of the file that's at the OSC, but  
17 I'm not sure, I'd have to go back and look. It's  
18 been awhile.

19 [REDACTED] [REDACTED]: Okay, thank you. I  
20 appreciate it.

21 MR. DANIELS: But, this overlap, the  
22 time [REDACTED] was coming on board and [REDACTED]  
23 [REDACTED] was on the way out.

1           [REDACTED] [REDACTED]: Around the 2003, 2004 time  
2 frame?

3           MR. DANIELS: Yes.

4           [REDACTED] [REDACTED]: You indicated that the use  
5 of these rotatable spares for FMS purposes was  
6 improper?

7           MR. DANIELS: Improper, yes.

8           [REDACTED]: Can you explain why you  
9 believe it was improper to use those spares for  
10 that?

11           MR. DANIELS: Because the foreign  
12 military sale launchers did not carry a warranty  
13 with them.

14           [REDACTED] [REDACTED]: Are you speaking about the  
15 foreign military sale customers?

16           MR. DANIELS: Customers did not carry a  
17 warranty on their launchers that were being  
18 procured from Lockheed.

19           [REDACTED] [REDACTED]: Are you aware of how  
20 Lockheed Martin used the rotatable spares to  
21 support the FMS requirements? How would they go  
22 about doing that? Did they have to be shipped  
23 somewhere, the spares, that is?

1           MR. DANIELS: I'm not sure where the  
2 spares are physically located, or were located, so  
3 I wouldn't know.

4           [REDACTED]: Were you aware of where the  
5 launchers were located, that would require the  
6 spares?

7           MR. DANIELS: I would assume they were  
8 going through some type of performance test at the  
9 Red River Army Depot.

10          [REDACTED]: So, most likely at Red  
11 River Army Depot?

12          MR. DANIELS: Yes.

13          [REDACTED]: And, who would be doing  
14 that performance testing?

15          MR. DANIELS: I think it would be the  
16 contractor with Government witnesses in the test  
17 or something similar to that.

18          [REDACTED]: And the FMS requirement  
19 would be part of the '94 launcher contract?

20          MR. DANIELS: Yes.

21          [REDACTED]: Do you recall which  
22 Government or Governments, in particular, had FMS  
23 requirements under that contract?

1 MR. DANIELS: I do believe it was  
2 Greece, Israel and Japan, I think.

3 [REDACTED]: When Red River, excuse me,  
4 when the testing that you just mentioned gets done  
5 at Red River by the Government, what's the next  
6 step in the process, assuming the testing  
7 demonstrates that the system is an acceptable  
8 system and meets the requirements of the contract?

9 MR. DANIELS: I would imagine the  
10 DD-250s assigned shipment and accepted by the  
11 Government.

12 [REDACTED]: And, if there are FMS  
13 launchers, what would be the next step, then, the  
14 Government accepted them on a 250?

15 MR. DANIELS: Yes.

16 [REDACTED]: Now, with these FMS  
17 requirements, what would be the next step?

18 MR. DANIELS: I don't know what mode of  
19 shipment they would have until the it came down, I  
20 just don't know the next step after that.  
21 Everybody's got a different way of having their  
22 launchers or the supplies shipped to them.

23 [REDACTED]: Okay, but first the

1 Government would be accepting these after it does  
2 it's testing at the Red River.

3 MR. DANIELS: Right.

4 [REDACTED]: And, then at some point  
5 subsequent to that, assuming they were acceptable,  
6 they would go to the testing, is that right?

7 MR. DANIELS: Yeah, freight forward or  
8 somebody of that sort.

9 [REDACTED]: Do you know at what point  
10 then the FMS customers accepts the delivery of the  
11 launchers that the Government sends to them?

12 MR. DANIELS: I would imagine it would  
13 be at the Red River, at origin. I'm not sure,  
14 since it's freight on board, to a freight forward  
15 at that point. I am not sure.

16 [REDACTED]: You're not sure. So, it's  
17 not clear to you then when the acceptance of these  
18 launchers by the foreign customer occurs, under an  
19 FMS case?

20 MR. DANIELS: Right, but I think it  
21 would normally be at Red River.

22 [REDACTED]: Why would you think it  
23 would normally be at Red River?

1           MR. DANIELS: At that time, it would  
2 probably be turned over to a freight forwarder at  
3 that point, hired by the Foreign Military Sales  
4 customer.

5           [REDACTED]: So, the transportation  
6 costs associated with sending the launchers to the  
7 foreign customer are not part of the Government's  
8 requirement under the contract?

9           MR. DANIELS: No, it would be borne by  
10 the customer, I would think.

11          [REDACTED]: The cost being borne by the  
12 customer, right. I understand what you're saying,  
13 but what about the responsibility to actually ship  
14 them?

15          MR. DANIELS: The acceptance and the  
16 actual ownership would occur at origin, at Red  
17 River.

18          [REDACTED]: And, you're sure of that?

19          MR. DANIELS: It's depending on what the  
20 contract says, I don't know, or what the FMS case  
21 says. I think that would be the normal way of  
22 doing business.

23          [REDACTED]: Okay, this particular

1 contract, then that you were the specialist on,  
2 are you aware of what this particular contract  
3 said?

4 MR. DANIELS: No, I'd have to go back  
5 and read it.

6 [REDACTED]: So, if I understand this  
7 correctly, then, from what you've just said that  
8 rather than getting new spares or in new  
9 condition, when Lockheed Martin transferred the  
10 inventory of spares, rotatable spares, a significant  
11 number were not new?

12 MR. DANIELS: Yes.

13 [REDACTED]: Do you know what condition  
14 they were in?

15 MR. DANIELS: The inventory itself tells  
16 you, would denote what condition they were in.

17 [REDACTED]: Do you know what happened  
18 to the new spares that otherwise would have been  
19 returned to us?

20 MR. DANIELS: That's what I would like  
21 for Lockheed Martin to tell us, I don't know.

22 [REDACTED]: When did you first become  
23 aware of the fact that Lockheed Martin was using

1 these spares for unauthorized purposes?

2 MR. DANIELS: It would have been after  
3 we got the inventory back from DCMC, that would  
4 have confirmed it.

5 [REDACTED]: Did you say that was around  
6 the May, 2003 time frame?

7 MR. DANIELS: Yes.

8 [REDACTED]: Let's assume that the  
9 launchers at Red River had not yet been accepted  
10 by the foreign customer. So, is it your  
11 understanding that under the terms of the '94  
12 contract that those launchers are still the  
13 responsibility of the United States Army until  
14 they are accepted by the foreign customer?

15 MR. DANIELS: Yes, if they don't pass  
16 the test, yes.

17 [REDACTED]: So, again, assuming that  
18 the launchers at Red River had not been yet  
19 accepted by the foreign customer and title  
20 ownership transferred to the foreign customer,  
21 would it have been improper under those  
22 circumstances for the rotatable spares to have been  
23 used to fix any of the launchers that were being



1 tested?

2 MR. DANIELS: You mean, after the  
3 acceptance?

4 [REDACTED]: No, before acceptance by  
5 the foreign customer.

6 MR. DANIELS: Had they accepted them  
7 before they were tested?

8 [REDACTED]: No, I'm sorry, let me try  
9 to clarify my question. Let's assume that the  
10 foreign customer has not accepted the launchers  
11 that are at Red River where you indicated the  
12 Government, the Army is doing its acceptance  
13 testing.

14 MR. DANIELS: Yes.

15 [REDACTED]: And, let's assume there is  
16 a problem with one of the launchers that's  
17 eventually designated to be delivered to and  
18 accepted by a foreign customer under this  
19 contract?

20 MR. DANIELS: Yes.

21 [REDACTED]: In those circumstances,  
22 would it have been improper for the rotatable  
23 spares to have been used to fix those launchers

1 prior to acceptance by the foreign customer?

2 MR. DANIELS: In accordance with the  
3 warranty requirements of the contract, unless they  
4 received permission from the Contracting Officer  
5 to invoke the warranty, anything other than that,  
6 it would have been improper.

7 [REDACTED]: Okay, let's also assume  
8 then that they had the authority from the  
9 Contracting Officer, which I understand your  
10 position is clearly they did not. But, which  
11 hypothetically, if they had the permission of the  
12 Contracting Officer, would it then have been a  
13 permissible use of those rotatable spares to fix  
14 those launchers prior to their being delivered and  
15 accepted by the foreign customer?

16 MR. DANIELS: If we knew they were going  
17 to be, become property of the foreign country,  
18 knowing that they did not buy a warranty, the  
19 answer would be no.

20 [REDACTED]: It would not have been a  
21 proper use, is that what you are saying?

22 MR. DANIELS: Right, right.

23 [REDACTED]: Okay. Let me ask you about

1 the warranty. How does this particular warranty  
2 operate in terms of property that's delivered to  
3 the Government? When would the Contracting  
4 Officer be exercising the Government's rights  
5 under a warranty?

6 MR. DANIELS: The warranty goes in great  
7 detail on talking about that. There's several  
8 different scenarios.

9 [REDACTED]: Would you exercise the  
10 warranty before acceptance, or is it a post-  
11 acceptance contractual right?

12 MR. DANIELS: I had to read the warranty  
13 clause, itself, I just don't remember that much.  
14 It's about seven pages long. There's several  
15 different scenarios. Under the specific warranty,  
16 it's several different types of warranties in  
17 there.

18 [REDACTED]: Isn't this the purpose of a  
19 warranty to provide the Government a remedy after  
20 acceptance of supplies so that they can go back to  
21 the contractor, post-acceptance to have defects  
22 repaired or remedied by the contractor, that  
23 otherwise, the Government would have accepted and

1 bought, but for the warranty?

2 MR. DANIELS: Yes, in theory, but it  
3 always depends on what exactly is in the contract  
4 warranty clause, itself. And that's what you  
5 would have to defer to.

6 [REDACTED]: Well, just, for example,  
7 let's turn to the warranty, if we can at Tab 43-A.  
8 And, before I ask you about the warranty, just so  
9 I'm clear --

10 MR. DANIELS: Just the form here.

11 [REDACTED]: Were you the Contracting  
12 Officer or the Contract Specialist?

13 MR. DANIELS: I'm the Contract  
14 Specialist. I just want to make a point here.  
15 The inventory that we talked about.

16 [REDACTED]: Yes.

17 MR. DANIELS: It does appear at Tab 42.  
18 I just wanted to make a note of that.

19 [REDACTED]: Okay, and let's talk about  
20 42, then. Thank you for pointing that out. This  
21 is -- is this the DCMA warranty, audit that you  
22 were talking about?

23 MR. DANIELS: Right. This is one that

1 was provided to me from DCMC and Lockheed Martin.

2 [REDACTED]: Okay, was there any sort of  
3 cover letter, transmittal letter?

4 MR. DANIELS: Yes, that should be in my  
5 e-mail. Like I said, I'll try to get you a copy  
6 of that.

7 [REDACTED]: Okay, thank you. And,  
8 where does this document at Tab 42 show the  
9 condition of the --

10 MR. DANIELS: Under, "Condition Code,"  
11 right next to, "Serial number".

12 [REDACTED]: Right.

13 MR. DANIELS: And, "A4," and it gives  
14 different codes for each.

15 [REDACTED]: What does A4 code mean?

16 MR. DANIELS: I would have to defer back  
17 to the legend. There's a legend that came with  
18 it, and I will have to defer, but I can't say  
19 anything other than an A1 condition has been used.  
20 Wait a minute. No, I'll defer that question.

21 [REDACTED]: An example, then, the  
22 coupling half that's near the bottom of the first  
23 page, has an A1 designation and three each.

1 MR. DANIELS: Okay.

2 [REDACTED]: Is it your understanding  
3 then that that would have been a new part?

4 MR. DANIELS: I would have to defer back  
5 to the legend because I don't remember and quite  
6 frankly, this is not starting to appear to be the  
7 one that was earlier. I would have to defer that  
8 question, but it is starting not to look the same.

9 [REDACTED]: The annotation on the  
10 second page, that warranties were consumed. What  
11 does -- what are consumed?

12 MR. DANIELS: This is starting to look  
13 like something that I am not familiar with. I  
14 would have to defer.

15 [REDACTED]: Do you understand what the  
16 term, "consumed," means in the context of this  
17 audit?

18 MR. DANIELS: Yes.

19 [REDACTED]: Not necessarily that you  
20 know for a fact that these particular parts were  
21 consumed, but what would the designation,  
22 "consumed," mean in the context of this type of  
23 document?

1 MR. DANIELS: This means it has been  
2 probably been integrated as part of a higher  
3 assembly or worn out or discarded in the  
4 performance of the warranty.

5 [REDACTED]: It does appear that in the  
6 Army Report Index that this spreadsheet was one  
7 that was provided by you to OSC documenting the  
8 alleged used condition of the warranty spares.  
9 You are indicating now that you're not sure?

10 MR. DANIELS: I'm not sure now because  
11 I'm not sure about what all these -- what A1, or  
12 A4 means. I'd have to go back and check with the  
13 legend that came with it.

14 [REDACTED]: When were you provided a  
15 copy of what was contained in Army Report Number 1  
16 and Number 2, approximately?

17 MR. DANIELS: In 2003, I can't remember.  
18 I'd have to go back to the e-mails. I've got so  
19 many. I just don't know. I'd just be guessing.

20 [REDACTED]: I'm sorry, maybe I wasn't  
21 clear. These reports were prepared in 2008 and  
22 2009, the Army reports themselves.

23 MR. DANIELS: Uh-huh. (Affirmative)

1 response.)

2 [REDACTED]: What I am asking is when  
3 were you given a copy of the Army Reports that  
4 were prepared in 2008 and then a second volume in  
5 January of 2009, do you recall?

6 MR. DANIELS: February, I think.

7 [REDACTED]: About February of 2009?

8 MR. DANIELS: Yes.

9 [REDACTED]: And, this particular  
10 document, have you seen this particular document  
11 since that February, 2009 time frame?

12 MR. DANIELS: No, I hadn't examined it  
13 at all.

14 [REDACTED]: You hadn't examined it?

15 MR. DANIELS: No.

16 [REDACTED]: Going back to the warranty  
17 provision itself at Tab 43A.

18 MR. DANIELS: Okay.

19 [REDACTED]: I'm looking on what's  
20 designated as Page 46 of PZ0008, the warranty  
21 provision.

22 MR. DANIELS: Okay.

23 [REDACTED]: Paragraph 2A.



1 MR. DANIELS: Yes.

2 [REDACTED]: And the provision reads,  
3 "The contractor warrants that beginning at  
4 acceptance and ending at handoff (or 9 months  
5 after acceptance)." Isn't that?

6 MR. DANIELS: Yes.

7 [REDACTED]: And Paragraph B is,  
8 subparagraph B of Paragraph 2, the, "Materials and  
9 Workmanship Warranty," similarly states, "The  
10 contractor warrants that beginning at acceptance  
11 and ending at handoff (or 9 months after  
12 acceptance.)" Is that correct?

13 MR. DANIELS: Yes.

14 [REDACTED]: And 2C, the, "Performance  
15 Warranty," similarly, "For the period from  
16 Government acceptance until the end item is handed  
17 off (or 9 months after acceptance)?"

18 MR. DANIELS: Yes.

19 [REDACTED]: So, this particular  
20 warranty then, does it appear from reading that  
21 language that this is a post-acceptance remedy  
22 clause that's included in this contract?

23 MR. DANIELS: Right. Notwithstanding

1 what is here in the other pages, yes.

2 [REDACTED] So, going back to my  
3 question a few minutes ago. Would it have been  
4 improper for the Government to have invoked this  
5 warranty and Lockheed Martin then to have used  
6 rotatable spares to correct defects that were in  
7 launchers under the '94 contract that were found  
8 either during the acceptance testing or post-  
9 acceptance by the Army, but prior to delivery and  
10 acceptance by the foreign customer?

11 MR. DANIELS: If we knew in advance  
12 these launchers were destined for foreign  
13 customers, they had no warranty coverage, period.  
14 In any case, this never would have applied, in any  
15 case.

16 [REDACTED] This being the warranty?

17 MR. DANIELS: The warranty requirements  
18 would have never have applied to the FMS customers  
19 in any case.

20 [REDACTED] And, why not?

21 MR. DANIELS: Because they did not buy  
22 warranties, any warranties.

23 [REDACTED] But, the U.S. Army did?

1 MR. DANIELS: Yes.

2 [REDACTED]: And, wasn't it the Army's  
3 responsibility to deliver acceptable launchers to  
4 its customer, the foreign customer?

5 MR. DANIELS: No, it's Lockheed Martin's  
6 responsibility to delivery acceptable warranties  
7 to the Army and the Army, in turn, delivers them  
8 to the FMS customer.

9 [REDACTED]: So, then the --

10 MR. DANIELS: If they were defective  
11 before acceptance, that was grounds for the Army  
12 not to accept them period, warranty or no  
13 warranty.

14 [REDACTED]: Post-acceptance.

15 MR. DANIELS: Yes, post-acceptance.  
16 We're talking about before acceptance. Anytime  
17 before acceptance if they do not conform, or if  
18 they are defective, the warranty wouldn't come  
19 into play, anyway.

20 [REDACTED]: My question has to do with  
21 the period of time that would have existed after  
22 the Army accepted launchers, but before the  
23 foreign customer accepted the launcher?

1 MR. DANIELS: Knowing in advance that  
2 they were for foreign military sales customers,  
3 the requirements of the warranty would never  
4 apply.

5 [REDACTED]: And, the reason why this  
6 warranty would not apply is?

7 MR. DANIELS: Because it does not apply  
8 to FMS customers.

9 [REDACTED]: Why does it not apply to  
10 FMS customers?

11 MR. DANIELS: It's a U.S. warranty for  
12 the U.S. launchers.

13 [REDACTED]: Where does it say it's for  
14 U.S. launchers?

15 MR. DANIELS: Probably, in the  
16 modifications itself, that's PZ0008.

17 [REDACTED]: After the Government  
18 accepts the launchers from Lockheed Martin, do  
19 those launchers become Government property?

20 MR. DANIELS: If we accept launchers on  
21 behalf of FMS customer, those launchers will  
22 become the property of the FMS customer. We are  
23 acting as their agent.

1           ██████████: So, if I understand  
2 correctly what you said, you believe that upon the  
3 Army's acceptance of the launchers from Lockheed  
4 Martin, they became the property of the foreign  
5 customer at the same time?

6           MR. DANIELS: Because the U.S. had  
7 acted, at that point, as their agent.

8           ██████████: So, you believe that they  
9 become the property of the foreign customer at the  
10 same time that the Agency accepts those.

11          MR. DANIELS: Yes.

12          ██████████: I'd like to now turn to --  
13 pardon me, just a second. Just so I'm clear on  
14 your response, when I asked you whether a  
15 Contracting Officer could delegate that warranty  
16 authority to a COR, what was your response to  
17 that?

18          MR. DANIELS: I don't remember you  
19 asking me that question.

20          ██████████: I'm sorry, well, let me  
21 just ask you. I apologize. Could a Contracting  
22 Officer delegate their authority to invoke the  
23 warranty to a COR?

1 MR. DANIELS: Yes, in writing, only in  
2 writing, though.

3 [REDACTED]: Only in writing, okay.  
4 And, I believe you said that at some point you are  
5 required to box up the rotatable spares? I believe  
6 you said the Program Office passed the task, or  
7 required that be done for a shipment to Iraq?

8 MR. DANIELS: To Iraq?

9 [REDACTED]: To Iraq. I think that's  
10 what you said you recall being the case?

11 MR. DANIELS: Yes.

12 [REDACTED]: At that point, did you know  
13 where these rotatable spares were located?

14 MR. DANIELS: I do believe they were  
15 located at Red River. It may have been Camden,  
16 but I just don't know, Camden Arkansas or Red  
17 River. I can't remember. I'll have to go back  
18 and check.

19 [REDACTED]: And, in terms of delegating  
20 the authority to invoke the warranty, did you  
21 contact or ask any of the CORs on this contract,  
22 whether or not, in fact, they had been given such  
23 delegated authority?

1 MR. DANIELS: I wasn't aware there were  
2 any ever appointed under this contract. It may  
3 have been, but I don't know of any.

4 [REDACTED] So, you're not aware of  
5 whether or not a COR was appointed under this  
6 contract?

7 MR. DANIELS: This contract.

8 [REDACTED] In general, under contracts  
9 of this size and magnitude, is the Contracting  
10 Officer's representative usually appointed? Does  
11 it have the oversight of the contract?

12 MR. DANIELS: It is on a case by case  
13 basis. Usually, the ACO has enough personnel to  
14 administer the contract without use of a COR.

15 [REDACTED] How about a technical  
16 representative?

17 MR. DANIELS: No.

18 [REDACTED] Is a technical  
19 representative generally appointed?

20 MR. DANIELS: Not that I know of. A  
21 COTR, if there was one appointed, I don't know of  
22 it.

23 [REDACTED] Let's move to Tab 5, if we

1 can of DA Report Number 1. Tab 5 should be a  
2 document, six page document containing the  
3 findings of the U.S. Army Criminal Investigation  
4 Command.

5 MR. DANIELS: Yes.

6 [REDACTED] Reference this case file  
7 number?

8 MR. DANIELS: Tab 5?

9 [REDACTED] Tab 5.

10 MR. DANIELS: Is that it?

11 [REDACTED] That's it. Are you  
12 familiar with this document?

13 MR. DANIELS: No.

14 [REDACTED] Have you previously read  
15 this document?

16 MR. DANIELS: Not completely.

17 [REDACTED] Not completely. Let me ask  
18 you some questions about a document at Tab 5. On  
19 Page 2, there's a paragraph in bold that begins  
20 "OSC Allegation 1."

21 MR. DANIELS: Yes.

22 [REDACTED] And, that paragraph  
23 addresses the allegation pertaining to Technical



1 Direction Letters or TDLs?

2 MR. DANIELS: Yes.

3 [REDACTED]: Correct?

4 MR. DANIELS: Yes.

5 [REDACTED] [REDACTED]: And, in this report, on  
6 Page 2, it indicates that CID interviewed you at  
7 some point to their investigation, is that  
8 correct?

9 MR. DANIELS: Yes.

10 [REDACTED] [REDACTED]: And, that CID also  
11 consulted with the Defense Contract Audit Agency?  
12 Is that correct?

13 MR. DANIELS: Yes.

14 [REDACTED]: And, AMCOM Program  
15 Management and Procurement Officials?

16 MR. DANIELS: Yes.

17 [REDACTED] [REDACTED]: In addition, the CID worked  
18 with the Justice Department from the early stages  
19 of the investigation, as well as the U.S.  
20 Attorney's office for the Northern District of  
21 Alabama?

22 MR. DANIELS: Yes.

23 [REDACTED] [REDACTED]: And, does it indicate that

1 the investigation to this allegation on Page 3 of  
2 this document now, that this investigation was  
3 reopened on August 8th, 2005 at the request of the  
4 Army General Counsel?

5 MR. DANIELS: Yes.

6 [REDACTED]: And that between August,  
7 2005 and 29 May 2007, CID gathered additional  
8 evidence and interviewed additional witnesses?

9 MR. DANIELS: Yes.

10 [REDACTED]: And, right after that, the  
11 report concludes the report concludes that, "After  
12 further investigation, CID found no criminal  
13 offense and unfounded this allegation in a  
14 supplemental report dated November 30th, 2007"?

15 MR. DANIELS: Yes.

16 [REDACTED]: Now, I understand that from  
17 what you just said, that this is the first time  
18 you are reading this?

19 MR. DANIELS: Yes.

20 [REDACTED]: So, I understand that this  
21 is new information to you, right?

22 MR. DANIELS: Yes.

23 [REDACTED]: Based upon what you are now

1 reading, that the CID unfounded Allegation 1 in  
2 terms of their being criminal responsibility,  
3 does that give you any reason to question any part  
4 of all of your allegation pertaining the use of  
5 TDLs?

6 MR. DANIELS: Yes, I made that point in  
7 my response. My 11 March response, it talks about  
8 my objections based on the premise that they found  
9 no criminal offenses.

10 [REDACTED]: Again, if I understood you  
11 correctly then, it is still your position,  
12 understanding, belief, that there was criminal  
13 activity involved in the unauthorized use of TDLs?

14 MR. DANIELS: Yes.

15 [REDACTED]: Can you tell me who  
16 specifically you believed engaged in that criminal  
17 activity?

18 MR. DANIELS: It would be Lockheed  
19 Martin and I would suspect unknown people in the  
20 Project Manager's office.

21 [REDACTED]: Who, specifically, in  
22 Lockheed Martin by name?

23 MR. DANIELS: It would be the signatures

1 to the various TDLs.

2 [REDACTED] Those individuals who  
3 signed the TDLs?

4 MR. DANIELS: Yes.

5 [REDACTED] And those would be the TDLs  
6 that are referenced in the OSC allegation?

7 MR. DANIELS: Yes.

8 [REDACTED] And, you believe that each  
9 of those persons who signed a TDL that's  
10 referenced in the OSC referral letter committed a  
11 criminal offense?

12 MR. DANIELS: Yes. They knew that these  
13 -- those TDLs was not within the scope of the  
14 Engineering Services Contract. And, they also  
15 knew that those exact same tasks, in most cases,  
16 were being duplicated on fixed price contracts or  
17 R&D Contracts or EMD Contracts.

18 [REDACTED] Let me try to take those  
19 two statements you made separately, if I can,  
20 unless they're connected in some way, but the out  
21 of scope portion of your allegation, are you  
22 asserting that if Lockheed Martin knew that these  
23 were out of scope and that the Government ordered

1 work from Lockheed Martin under a contract, that  
2 Lockheed Martin believed was out of scope, that  
3 Lockheed Martin and the individual who signed that  
4 TDL would be committing a criminal offense?

5 MR. DANIELS: Yes, because they knew  
6 that the effort was being duplicated and the  
7 Government was paying twice for the exact same  
8 effort.

9 [REDACTED]: Well, me just back up for a  
10 second. I was trying to take the first portion of  
11 your statement that the out of scope activity, in  
12 itself, would amount to a criminal offense.

13 MR. DANIELS: Because it --

14 [REDACTED]: Regardless of duplicate  
15 costs.

16 MR. DANIELS: Right. Right.

17 [REDACTED]: Or charging?

18 MR. DANIELS: Right. Therein lies the  
19 reason for duplicating the costs to be paid twice  
20 for the same effort. Therein lies the reason for  
21 approving those TDLs that they knew were out of  
22 scope and were not subject for reimbursement under  
23 the Engineering Services Contract.

1           ██████████: Okay, let me try to  
2 understand that then. Again, I don't want to put  
3 words in your mouth. So, then, are you saying  
4 that the criminal offense would arise only if  
5 there was duplicate charging?

6           MR. DANIELS: Yes.

7           ██████████: But, not solely by  
8 performing work under a contract that was out of  
9 scope at the direction of the Government?

10           MR. DANIELS: In either case, it would  
11 be an intentional act. Whether or not the first  
12 case resulted in any monetary losses to the  
13 Government, that is a whole different question,  
14 but that would be no reason to duplicate it if  
15 there was not some kind of financial advantage  
16 involved.

17           ██████████: Assuming there was  
18 duplication of effort in the EIS Contract.

19           MR. DANIELS: Yes. There would be no  
20 reason to work out a scope of contract if there  
21 were not some financial incentive involved.

22           ██████████: You mentioned, I believe, I  
23 don't know if you used the phrase, unnamed, but

1 unidentified Government personnel?

2 MR. DANIELS: Well, each TDL was signed  
3 by different people. And, some of the signatures  
4 on the TDLs, I can't decipher.

5 [REDACTED]: Now, I'm not talking about  
6 Lockheed Martin now, I'm talking about Government  
7 people.

8 MR. DANIELS: I'm talking about  
9 Government personnel. Yeah, I can't decipher.

10 [REDACTED]: What would have been the  
11 criminal offense that would have been committed by  
12 a Government person regarding the TDL?

13 MR. DANIELS: Now, that's going all the  
14 way back to my original allegation. I have had my  
15 -- I don't know, but I have my suspicions. I have  
16 no way of proving this, but the only reason the  
17 Government personnel would try to do something  
18 like this, there was some type of financial or  
19 post-employment kick-back scheme or whatever that  
20 they would eventually benefit from doing this.

21 [REDACTED]: Do you believe that the CID  
22 investigated whether or not Lockheed Martin was,  
23 in fact, making enhanced profits by charging two

1 contracts for the same work?

2 MR. DANIELS: The reason I am  
3 questioning what happened, reading these reports,  
4 I see absolutely no evidence of any post award.  
5 For instance, accounting of any of the IES  
6 contracts involved.

7 And, without those type audits, no one  
8 could ever tell. And, my question is when is  
9 somebody going to do a post-award auditing on  
10 these Engineering Services Contracts that I have  
11 questioned here.

12 [REDACTED]: So, do you believe then it  
13 was improper for CID to draw the conclusion that  
14 there was no criminal offense committed regarding  
15 Allegation 1?

16 MR. DANIELS: And, the answer would be,  
17 I just don't know because I have no idea what was  
18 the context of the investigation, but I think,  
19 like I said, I see no evidence of any forensic  
20 accounting of any Engineering Services Contract  
21 that I questioned.

22 [REDACTED]: Do you have any reason to  
23 believe that either the U.S. Attorney, or the



1 Justice Department would agree that there are no  
2 criminal activities involved in Allegation 1  
3 without a reasonable basis to draw that  
4 conclusion?

5 MR. DANIELS: Right. Like I said, I  
6 can't draw a conclusion, but I can say this. I  
7 see no evidence of any forensic post-award  
8 auditing of any Engineering Services Contracts, or  
9 whether or not they had been duplicatively charged  
10 for those TDLs. I see no auditing anywhere.

11 [REDACTED]: And, is it because of that  
12 that you question the conclusion reached by the  
13 CID and the U.S. Attorney's office and the Justice  
14 Department in concluding that there was no  
15 criminal violation?

16 MR. DANIELS: I'm not making a  
17 conclusion. I am making an observation that there  
18 was no forensic auditing done that I know of on  
19 any of the Engineering Services Contracts.  
20 Without cost auditing, how can anybody ever tell  
21 when anything has ever been mischarged or charged  
22 properly?

23 [REDACTED]: Well, the U.S. Attorney's

1 office with the Northern District of Alabama  
2 apparently concluded that there was no criminal  
3 offense.

4 MR. DANIELS: Based on what? All my  
5 concerns are spelled out in semi-detail in my 11  
6 March 09 response to the report.

7 [REDACTED] Could you turn to your 11  
8 March response to OSC and highlight to me those  
9 details or semi-details that are contained in that  
10 response to OSC?

11 MR. DANIELS: Yes. (Witness complying  
12 with request.) I have it here. I don't know  
13 whether this is a part of the file. It should be,  
14 March 11th in response to the DA's Report of  
15 Investigation.

16 [REDACTED] This is your March 11th  
17 response?

18 MR. DANIELS: Yes.

19 [REDACTED] I believe I presented you a  
20 volume yesterday that had your response to OSC and  
21 Tabs A through I.

22 MR. DANIELS: I am referring to that  
23 document, March 11, 2009. Second, Page 1, second

1 paragraph.

2 [REDACTED]: Okay, Page one, second  
3 paragraph?

4 MR. DANIELS: Yes.

5 [REDACTED]: Okay.

6 MR. DANIELS: That's a brief synopsis of  
7 what I've seen ignored or just not even considered  
8 in the DA Report of Investigation.

9 [REDACTED]: Would you, if it's just a  
10 portion of that paragraph, would you just read the  
11 portion that you believe --

12 MR. DANIELS: It's the entire paragraph.

13 [REDACTED]: And it begins with, "The  
14 delinquent DA, ROIs"?

15 MR. DANIELS: Yes.

16 [REDACTED]: Is there anything in your  
17 11 March 09 submission that is any more specific  
18 than what's in that paragraph?

19 MR. DANIELS: The letter goes on to give  
20 specific instances throughout the letter of those  
21 omissions and false findings and unfounded  
22 conclusions.

23 [REDACTED]: Just highlight a few as

1 they pertain to the TDLs.

2 MR. DANIELS: Oh, that would be Page 6,  
3 Paragraph 10A, B and C.

4 [REDACTED] And, which particular TDLs  
5 that were placed under the IES Contract do you  
6 believe should have been placed under the MLRS  
7 System Production Contract.

8 MR. DANIELS: I'm not saying any one of  
9 the TDLs were ever supposed to be placed on any  
10 Production Contract. I'm not saying that.

11 [REDACTED] What are you saying then,  
12 Mr. Daniels?

13 MR. DANIELS: I'm saying that in  
14 accordance with the Statement Of Work of the IES  
15 contracts, that "The DA, ROIs finding that  
16 separate and concurrent MLRS system production  
17 related contract tasks and issues were within the  
18 scope of the referenced separate and concurrent  
19 MLRS cost-reimbursable IES contracts is false and  
20 is not in accordance with the plain language of  
21 the questioned IES contracts Scope Of Works.

22 "The questioned IES contracts were  
23 expressly worded to exclusively support the

1 fielded MLRS, M270 Launchers."

2 [REDACTED]: Let me refer you to the OSC  
3 referral letter of 20 August 2003.

4 MR. DANIELS: Yes.

5 [REDACTED]: I will read briefly from  
6 Page 3 of that letter. It says, "Similarly,  
7 Mr. Daniels also discovered that the Program  
8 Office approved certain TDLs for research and  
9 development-related tasks, which the Government  
10 had already funded under M270A1 Research and  
11 Development Contracts."

12 Can you, in terms of the research and  
13 development tasks, can you point to a specific TDL  
14 that was placed under the IES Contract as well as  
15 under an R&D Contract?

16 MR. DANIELS: They are listed in the  
17 report. I don't know what tabs they are.

18 [REDACTED]: As you are looking through  
19 that, let me read this as well on Page 3.  
20 "Mr. Daniels states that, instead, the Program  
21 Office issued several TDLs under the IES Contract  
22 for production-related tasks that were already  
23 included in the price of the Production Contract."

1           So, similarly, can you identify those  
2 particular TDLs that were placed against the IES  
3 Contract?

4           MR. DANIELS: I think I've identified  
5 the tabs.

6           ██████████: That were already included  
7 in the price of the Production Contract.

8           MR. DANIELS: Okay, it's under Tab 45 of  
9 the DA Report. This was the TDL that was, already  
10 had been funded under the R&D Contract?

11          ██████████: Which R&D Contract had this  
12 been funded under?

13          MR. DANIELS: Without having my  
14 allegations in front of me, I'm assuming it's  
15 going to be 92C-0432 for the IFCS Improved Fire  
16 Control Panel. That will be the same for the TDL  
17 under Tab 46. That will also be the same for the  
18 IFCS it under Tab 47.

19          ██████████: I'm sorry, I didn't get  
20 that one.

21          MR. DANIELS: Under Tab 47, the same as  
22 IFCS 0432.

23          ██████████: And, you believe that --

1 MR. DANIELS: Duplicate tasks, and under  
2 TDL, under Tab Number 48, that would be LRIP  
3 Contract DAAH01-98-C-0138 for production of M270A1  
4 Launchers.

5 [REDACTED]: And just so I understand,  
6 you believe that those three tasks were performed  
7 under the R&D Contracts?

8 MR. DANIELS: It may be some, or -- no,  
9 this is production, the first three. One of the  
10 48 is going to be a Production Contract, TDL.

11 [REDACTED]: Okay, then 46 and 45? Are  
12 those two that you believe were?

13 MR. DANIELS: Yes, 45, 46 and 47.

14 [REDACTED]: And, you believe those  
15 three tasks, under Tabs 45, 46 and 47 were  
16 performed and paid for under the R&D Contract?

17 MR. DANIELS: EMD and R&D, are basically  
18 the same, 92-C-0432.

19 [REDACTED]: Which was the contract for  
20 upgrading the launcher?

21 MR. DANIELS: The IFCS yes, Improved  
22 Fire Control System.

23 [REDACTED]: The 0432, 92-C-0432, isn't

1 that the cost reimbursement contract for upgrading  
2 the launcher?

3 MR. DANIELS: Okay.

4 [REDACTED]: And, isn't 95-C-0329 the  
5 contract for --

6 MR. DANIELS: This says it should be for  
7 an Improved Fire Control Panel for 0432, as  
8 submitted. That was for an Improved Fire Control  
9 Panel.

10 [REDACTED]: The 92-C-0432 was for the  
11 Improved Fire Control System?

12 MR. DANIELS: For the Improved Fire  
13 Control System.

14 [REDACTED]: Thank you. And 95-C-0329  
15 was for the mechanical launcher, is that right?

16 MR. DANIELS: Engineering, it should be  
17 Engineering Services. Oh, yes, for the -- yes, of  
18 course. That's it.

19 [REDACTED]: Thank you.

20 [REDACTED]: The record may be unclear.  
21 He said that's it, but what does he mean?

22 [REDACTED]: Mr. Daniels, I believe, was  
23 acknowledging that the 95-C-0329 Contract was a



1 Research and Development Contract for the M270A1  
2 Launchers, including mechanical system. Is that  
3 correct, Mr. Daniels?

4 MR. DANIELS: Yes.

5 [REDACTED]: Thank you.

6 MR. DANIELS: And, 48 was for M270A1  
7 Production Contract, 98-C-0138. And, 49 would  
8 have been 92-C-0432, the Improved Fire Control  
9 System. And, under Tab 50A, would have been  
10 98-C-0138.

11 [REDACTED]: And that was the Low Rate  
12 Initial Production Contract for launchers?

13 MR. DANIELS: Yes.

14 [REDACTED]: And --

15 MR. DANIELS: And, 50B, could have been  
16 either 98-C-0138 or 00-C-0109.

17 [REDACTED]: And what have you pointed  
18 to that indicates that Lockheed Martin double-  
19 charged for these efforts?

20 MR. DANIELS: If you go to the scope of  
21 works of those contracts, or the requirements of  
22 those contracts, you will find the same ones or  
23 substantially the same tasks under those

1 contracts.

2 [REDACTED] So, if I understand you  
3 correctly, if, in fact, the Statements Of Work for  
4 these TDLs, be they R&D or production type tasks,  
5 if they are included in the scope of work of a  
6 Production Contract.

7 MR. DANIELS: Or an R&D contract.

8 [REDACTED] Then, your assertion is  
9 putting them on the IES Contract.

10 MR. DANIELS: Is a repetitive task.

11 [REDACTED] Leads to a repetitive  
12 charging.

13 MR. DANIELS: Repetitive charging.

14 [REDACTED] So, am I correct then in  
15 concluding that the basis for your belief is  
16 founded upon your interpretation that the efforts  
17 described in these TDLs are --

18 MR. DANIELS: Also described in the  
19 other contracts, or should I say described in  
20 other concurrent contracts, on-going contracts.

21 [REDACTED] Okay. Back to Tab 5, if we  
22 can. Page 3.

23 MR. DANIELS: (Witness complying with

1 request.) I'm there. I guess this is 5.

2 [REDACTED] Let's not guess, let's make  
3 sure.

4 MR. DANIELS: Here, we go, I've got it.  
5 I'm there.

6 [REDACTED]: "OSC Allegation 2," and  
7 that deals with the VECP allegation.

8 MR. DANIELS: Yes.

9 [REDACTED]: Similarly, that CID  
10 reopened its investigation and ultimately  
11 concluded that there was no criminal offense. Is  
12 it your position that, in fact, there were  
13 criminal offenses committed?

14 MR. DANIELS: Yes. And, it's totally  
15 expounded in my 11 March, in my 11 March response.  
16 That would be Page 5, Paragraph 8.

17 [REDACTED]: Okay, and can you explain  
18 the criminal offenses that you believe were  
19 committed regarding Allegation 2?

20 MR. DANIELS: "Lockheed Martin false  
21 claim and certification on 89-C-0336 modification  
22 P00241, clause, 'H-52,' that LM, Lockheed Martin  
23 alleged Voluntary VECP Number 1450A1 was

1 developed, 'exclusively,' at private expense.

2 "It was Government funded IES, ECP  
3 contract effort that ultimately cumulated in the  
4 final delivery of MI-C-1450A1 under the ECP, data  
5 item requirement of contract 92-C-0243 on 24  
6 November 1993."

7 [REDACTED]: And, who particularly would  
8 have, do you believe, committed these offenses?

9 MR. DANIELS: It would have been  
10 Lockheed Martin. They were in full knowledge that  
11 they were charging VECP effort under an existing  
12 Government contract. At the same time, claiming  
13 to have developed it at private expense.

14 [REDACTED]: A particular individual or  
15 individuals at Lockheed Martin?

16 MR. DANIELS: That I cannot identify  
17 because I do not know who generated and who  
18 approved the charges against, at Lockheed of the  
19 VECP. That was what I was hoping an audit would  
20 have determined.

21 [REDACTED]: Thank you, Mr. Daniels. It  
22 is twenty after 2. So, if it's okay, maybe we can  
23 take a break?

1 MR. DANIELS: Before we break, I would  
2 like to go ahead and give you these documents we  
3 talked about earlier, the backup for the Colleen  
4 Rodriguez letter. And, it is a two-page document  
5 talking about the deployment of the HIMARS and the  
6 shipping of the Fire Control Panels to Red River.

7 (Exhibit No. 20, being a 3 page  
8 document, entitled, "M270A1  
9 Launcher Acceleration," dated 8  
10 October 2002, was marked.)

11 [REDACTED]: Okay, the first document  
12 you have just handed me is entitled, "M270A1  
13 Launcher Acceleration." It is dated 8 October  
14 2002, is that correct?

15 MR. DANIELS: Yes.

16 [REDACTED]: And, who authored this  
17 document, do you know?

18 MR. DANIELS: This would have come from  
19 the Program Manager's Office. I don't know who  
20 the exact author was.

21 [REDACTED]: How did it come into your  
22 possession?

23 MR. DANIELS: It was just part of the

1 supporting documentation for the 15 October 02  
2 letter from [REDACTED], authorizing the  
3 shipping short of the launchers.

4 [REDACTED]: And you say it was part of  
5 the supporting documentation?

6 MR. DANIELS: Filed with the letter.

7 [REDACTED]: Excuse me.

8 MR. DANIELS: It was filed with the  
9 letter as supporting documentation.

10 MR. DANIELS: It was filed with the 15  
11 October 2002 Colleen Rodriguez letter?

12 MR. DANIELS: Yes.

13 [REDACTED]: That we previously  
14 discussed?

15 MR. DANIELS: Yes.

16 [REDACTED]: Where was it filed?

17 MR. DANIELS: In the contract file.

18 [REDACTED]: Is there any reference in  
19 the 15 October 2002 letter from [REDACTED]  
20 to this document you handed me and the M270A1  
21 Launcher Acceleration?

22 MR. DANIELS: I didn't find a reference  
23 to that. But, assuming they came as part of that

1 letter, I'm assuming that it was as a result of  
2 that e-mail letter or whatever they sent, however  
3 they transmitted it.

4 [REDACTED] Who transmitted it, I'm  
5 sorry.

6 MR. DANIELS: The Program Manager's  
7 office, I would assume, is where that came from.  
8 And, the other document is the letter --

9 [REDACTED] Here it is.

10 [REDACTED] Thank you.

11 MR. DANIELS: And, the other letter is  
12 the letter from the Department of the Army, Office  
13 of the Deputy Chief of Staff, G-3, the Army  
14 Pentagon, signed by David H. Huntoon, Major  
15 General, GS, approving a request for immediate  
16 fielding of 19 M270A1s Multiple Launch Rocket  
17 Systems to the Second TO the Fourth Field  
18 Artillery (MLRS).

19 "The equipment will improve the unit's  
20 ability to accomplish its critical mission."

21 [REDACTED] Let's mark this Exhibit 21.

22 (Exhibit No. 21, being a one page  
23 document, entitled, "Memorandum for

1 Commander," dated 7 October 2002,  
2 was marked.)

3 [REDACTED]: Exhibit 21, which we have  
4 just marked, Mr. Daniels, just referring you to  
5 Tab 36 of the DA Report, is that the same document  
6 that's been marked just now as Exhibit 21?

7 MR. DANIELS: It appears to be the same.

8 [REDACTED]: And, that was in the copy  
9 of the DA Report that you were furnished, you  
10 mentioned?

11 MR. DANIELS: Yes.

12 [REDACTED]: Thank you. Can I suggest  
13 that we take a break, if that's okay. So, let's  
14 get back at twenty before three, if that's okay.

15 MR. DANIELS: Yes.

16 [REDACTED]: About fifteen minutes?

17 MR. DANIELS: Yes.

18 [REDACTED]: Thank you.

19

20 (Brief recess.)

21

22 [REDACTED]: This is [REDACTED] and we  
23 are resuming the interview with Mr. Clarence



1 Daniels. It is 2:40 on Wednesday, 15 July.

2 Continuing with Tab 5, Mr. Daniels,  
3 turning to OSC allegations 3 and 4, which have to  
4 do with the launcher safety.

5 MR. DANIELS: Yes.

6 [REDACTED]: And, the submission of a  
7 Safety Assessment Report, Page 4. Regarding the  
8 launcher safety. Aspect of the investigation,  
9 "The CID concluded that there was no criminal  
10 offense," for the reason stated on Paragraph 4,  
11 unfounded -- excuse me, "and the U. S. Attorney's  
12 office declined to prosecute."

13 Regarding the Safety Assessment Report,  
14 which continues on Page 5, the CID did find that  
15 Lockheed Martin had committed an offense by  
16 submitting invoices for a Safety Assessment  
17 Report, which had not been performed. And, as  
18 noted in the Army Report, the Army's pursuing an  
19 affirmative claim against Lockheed Martin in the  
20 amount of one million dollars, I believe we  
21 discussed that yesterday.

22 MR. DANIELS: Yes.

23 [REDACTED]: Do you agree with the

1 findings as summarized here in the CID report?

2 MR. DANIELS: I particularly didn't  
3 address that in my comments because there was so  
4 much that has gone on since then that I had no  
5 privy to, and I just don't have any comments on  
6 that.

7 [REDACTED] On the CID's report, the  
8 summary report on --

9 MR. DANIELS: The Safety.

10 [REDACTED] -- regarding Allegations 3  
11 and 4?

12 MR. DANIELS: Right.

13 [REDACTED] Going to the report on Page  
14 5 of OSC Allegation 5, the Fire Control Systems.  
15 Again, the initial CID investigation was reopened  
16 in August. And, this report indicates that  
17 additional evidence led to the conclusion that no  
18 criminal offense had been committed, regarding the  
19 Fire Control Systems.

20 The investigation, and then on Page 6  
21 reading, "The investigation revealed that there  
22 were no launchers accepted by the U. S. Government  
23 that lacked the Fire Control Systems."

1           MR. DANIELS: And, I take issue with  
2 that statement. The DD-250s themselves reflect  
3 that there, indeed, launchers accepted by the  
4 Government that lacked Fire Control Systems.

5           [REDACTED]: Understood. Let me finish  
6 reading the section, if I may, "Once the launchers  
7 were accepted by the Government, they became U. S.  
8 property and could be managed and used with other  
9 compatible systems to meet mission requirements."

10           I think the report was putting both of  
11 those sentences together and as we discussed and  
12 as you pointed out, [REDACTED] 15 October  
13 2002 letter did accept the systems, but they  
14 authorized their removal from the five launchers.

15           MR. DANIELS: Well, let's get into the  
16 details of that removal. If you would read the  
17 letter, let's refer back to the letter.

18           [REDACTED]: The 15 October 2002 letter  
19 by [REDACTED]?

20           MR. DANIELS: Yes, please. I'll just  
21 come around. Reading from the details of this  
22 letter, let me get a cleaner copy --

23           [REDACTED]: I have a cleaner copy here

1 if you would like to look at it, it is under Tab  
2 37.

3 MR. DANIELS: Tab 37?

4 [REDACTED] DA Report Number 1.

5 MR. DANIELS: On the first part of the  
6 15 October 2002 letter, it states, "Lockheed  
7 Martin Missile and Fire Controls - Dallas request  
8 for Government approval to accelerate delivery of  
9 the last five (5) upgraded LRIP III M270A1  
10 Launchers utilizing slaved hardware, which is  
11 defined as the process of using the same set of  
12 Fire Control System hardware to test and sell-off  
13 up to five (5) M270A1 Launchers, with the FCS  
14 hardware being removed following the DD-250 and  
15 used on the next launcher to be tested and sold  
16 allowing Lockheed Martin to invoice in full is  
17 authorized."

18 What actually happened, there was only  
19 one set of fire control system hardware. And as  
20 soon as one rocket was sold, accepted, that  
21 hardware was removed and put on the next launcher  
22 in line. And the previous launcher was shipped  
23 without a fire control system. They repeated the

1 process five times.

2 So, just following the process here,  
3 there were launchers shipped to Red River,  
4 according to this process, that did not have fire  
5 control systems. There's only one certain set of  
6 hardware.

7 [REDACTED]: So, you disagree with that  
8 conclusion by the CID for that reason?

9 MR. DANIELS: Yes.

10 [REDACTED]: Turning to Allegation 6 on  
11 Page 6, the warranty spare launcher parts issued?

12 MR. DANIELS: Yes.

13 [REDACTED]: Again, after reopening this  
14 investigation, the CID unfounded any criminal  
15 offenses related to rotatable spares.

16 MR. DANIELS: Yes. Lockheed Martin,  
17 paragraph -- the last paragraph of Page 6, halfway  
18 down, it states, "Lockheed Martin purchased the  
19 spares and was free to use the spares that it  
20 chose for the performance of the contract."

21 That is not a true statement. And, that  
22 is not in accordance with the warranty  
23 administration required in the contract. The

1 Lockheed Martin SPARES deal were purchased at  
2 Government expense, as proposed by Lockheed in  
3 their proposal.

4 [REDACTED]: Is that contractor --  
5 excuse me, that contract, was that a fixed price  
6 contract or a cost-reimbursable contract?

7 MR. DANIELS: Fixed price.

8 [REDACTED]: Fixed price. And, when  
9 does the Government get title to items purchased  
10 by a contractor that aren't deliverable end items  
11 at the time they are purchased under a fixed price  
12 contract?

13 MR. DANIELS: If I remember correctly,  
14 it's something similar to the Government retaining  
15 a vested interest in all property of the contract  
16 up until I think the contract is in a progress  
17 payments, but I would have to go back and read it.  
18 But, the progress payments clause of the fixed  
19 price contract would further expand on the  
20 Government's right in items purchased on the  
21 Government's account.

22 [REDACTED]: Would that cause, provide  
23 that the Government gets title?

1           MR. DANIELS: I don't know. I would  
2 have to read the clause. I just don't know. But,  
3 in any event, those spares could not have been  
4 used by Lockheed without the Government invoking  
5 the warranty provision, the requirements of that  
6 contract.

7           [REDACTED]: Let me turn to Tab F, which  
8 is a tab to your 11 March 09 letter to OSC.

9           MR. DANIELS: And, that will be  
10 concerning --

11          [REDACTED]: The Tab F, I believe, the  
12 first document the first document is a 30  
13 September 2005 memorandum you prepared?

14          MR. DANIELS: Yes.

15          [REDACTED]: The very first paragraph of  
16 the 30 September 2005 memorandum that you prepared  
17 under Tab F.

18          MR. DANIELS: Yes.

19          [REDACTED]: This paragraph deals with  
20 the safety issue concerning the launchers, is that  
21 correct.

22          MR. DANIELS: It is under Tab F, the  
23 first paragraph?

1           [REDACTED]: Yes, sir.

2           MR. DANIELS: Yes, sir, this is an all  
3 inclusive statement of all of the allegations,  
4 basically, in reference to DI-00-1499 and it goes  
5 on --

6           [REDACTED]: And, you specifically  
7 mentioned in the first paragraph, safety flaws,  
8 deadly safety flaws?

9           MR. DANIELS: Yes.

10          [REDACTED]: Contract fraud, management  
11 illegal despotic exercise of power?

12          MR. DANIELS: Yes.

13          [REDACTED]: That's the paragraph we're  
14 referring to?

15          MR. DANIELS: Yes.

16          [REDACTED]: Can you just expand a  
17 little bit upon what you see as specific criminal  
18 activity and by whom regarding the safety issue?

19          MR. DANIELS: Regarding the safety  
20 issue, I would have to go back and see my specific  
21 allegation on the safety issues themselves because  
22 it's been awhile since I made these allegations  
23 and I just couldn't tell you right off-hand.



1           [REDACTED] [REDACTED]: If we turn to Page 2 of  
2 that same document. The paragraph numbered 4,  
3 which is the last numbered paragraph on Page 2.  
4 It has to do with data rights.

5           MR. DANIELS: Right.

6           [REDACTED] [REDACTED]: Unlimited rights, royalty  
7 payments, theft of unlimited rights, deception and  
8 false pretense, in collusion with perfidious AMCOM  
9 and PEO management officials.

10                   Can you again expand a little bit upon  
11 what Paragraph 4 contains in terms of specific  
12 criminal activity involving the theft of unlimited  
13 rights?

14           MR. DANIELS: By claiming that the data  
15 was developed at one hundred percent Lockheed  
16 Martin expense that precluded the Government from  
17 obtaining unlimited rights to that data, since we  
18 would have paid for it one hundred percent.

19                   By falsely stating, making that claim  
20 that they did it at one hundred percent their  
21 cost, otherwise it would have, probably would have  
22 unlimited rights to the data.

23           [REDACTED] [REDACTED]: And, that would be data

1 associated with the Voluntary Value Engineering  
2 incentive?

3 MR. DANIELS: Yes.

4 [REDACTED]: Of activity that we  
5 discussed regarding the RRPR?

6 MR. DANIELS: Yes.

7 [REDACTED]: Reduced Range Rocket.

8 MR. DANIELS: Practice Rockets.

9 [REDACTED]: Okay. You have referred to  
10 both in your written correspondence and in oral  
11 testimony during this interview, your assertion  
12 that post-award forensic auditing should have been  
13 conducted, is that correct?

14 MR. DANIELS: It's my opinion, based on  
15 the findings that have been purported in the  
16 reports, you would think that that would be  
17 traceable documentation or audits to support the  
18 findings in the report. I find none.

19 [REDACTED]: So, to just again expand  
20 upon that, can you explain what you have in mind  
21 when you use the phrase, "post-award forensic  
22 auditing."

23 MR. DANIELS: Well, when the Government

1 would actually come in with independent auditor to  
2 go in and audit the exact tasks and costs that  
3 were charged against the questioned IES contracts  
4 during this time period.

5 [REDACTED]: Who would you think would  
6 do that type of audit for the Government?

7 MR. DANIELS: It will probably be DCAA  
8 or an independent auditor such as a GAO.

9 [REDACTED]: And, in a typical  
10 Government contract, cost reimbursement contract,  
11 are audits routinely done, as far as you know?

12 MR. DANIELS: Not post-award audits, no.  
13 But audits are required for anything over  
14 \$525,000.00, yes.

15 [REDACTED]: Is that a pre-award audit  
16 you are talking about?

17 MR. DANIELS: Yes, pre-award audit.  
18 Post-award audits aren't normally done.

19 [REDACTED]: They are not normally done  
20 on a cost reimbursement contract?

21 MR. DANIELS: Not in this instance. I  
22 know of any -- I don't know of any.

23 [REDACTED]: How about at close-out of

1 cost reimbursement contracts, are audits routinely  
2 done then?

3 MR. DANIELS: On final close-out, as far  
4 as I know, they are.

5 [REDACTED] They are, and who does  
6 that?

7 MR. DANIELS: I think that's DCAA or  
8 DCMC.

9 [REDACTED] Do you know whether DCAA is  
10 currently in the process of conducting any audits  
11 on any of the cost reimbursement contracts that  
12 we've discussed?

13 MR. DANIELS: I have no knowledge of  
14 that.

15 [REDACTED] Is there any piece of  
16 information, documentation, in either of the two  
17 Army reports, or that otherwise has been discussed  
18 or presented here in the last two days that has  
19 caused you to either alter your view or to  
20 consider, or to reconsider your view on any of  
21 these allegations?

22 MR. DANIELS: Only in the area of safety  
23 because I haven't been privy to the process of

1 corrective actions in the mitigation of those  
2 actions after I was off the program. For  
3 instance, I had no knowledge of the main letter  
4 that was issued, supposedly, to Lockheed.

5 [REDACTED]: Excuse me, the what letter?

6 MR. DANIELS: There was some type of the  
7 main letter that was issued to Lockheed in January  
8 of 2008 or something like that.

9 [REDACTED]: I'm sorry, I didn't mean to  
10 speak over. Is that the demand letter that we  
11 discussed that Mr. Snyder issued?

12 MR. DANIELS: Yes.

13 [REDACTED]: The million dollars for the  
14 cost of doing the safety review that Lockheed and  
15 the six hundred thousand dollars that is also  
16 demanding for costs associated with payment to  
17 Lockheed of launchers that had defects that we, at  
18 the time, unknowingly accepted and then paid for  
19 and are now requesting six hundred thousand  
20 dollars by way of reimbursement, is that correct?

21 MR. DANIELS: Right. I had no knowledge  
22 of that being issued.

23 [REDACTED]: Other than those two areas,

1 is there anything else that you can think of that  
2 might cause you to either re-examine or offer your  
3 views of your allegations?

4 MR. DANIELS: No. So far, I haven't  
5 found anything in the DA reports of investigation  
6 that would alter my view. Simply, I just can't  
7 find any evidence to support most of their claims  
8 and --

9 [REDACTED]: And that -- I'm sorry, go  
10 ahead and finish, please.

11 MR. DANIELS: To support most of their  
12 findings and I'm looking for back-up in a lot of  
13 cases to support their findings, but so far, I  
14 haven't found any.

15 [REDACTED]: Isn't it --

16 MR. DANIELS: Other than the statute of  
17 limitations. But that's -- that would be our  
18 fault.

19 [REDACTED]: During the course of our  
20 discussions, certainly today and possibly  
21 yesterday, you indicated in several instances that  
22 you were not familiar with certain tabs in the DA  
23 Report. And, I believe, had indicated that you

1 had only partially read or not read some of the  
2 documents that were in those tabs, is that  
3 correct?

4 MR. DANIELS: Yes.

5 [REDACTED]: Let me just have -- when I  
6 say, "the reports," how about just the body of the  
7 report, itself, not necessarily the tabs, each of  
8 those two Army reports had thirty or forty some  
9 odd pages of text preceding tabs, as you say,  
10 numbered from 1 to 101, depending on which volume  
11 you are in.

12 MR. DANIELS: Right.

13 [REDACTED]: What about the text of the  
14 body of the report, itself.

15 MR. DANIELS: Yeah, I read through  
16 those, and as a matter of fact, that was the  
17 reason my objections in my 11 March 2009 letter.  
18 I list all the, what I call omission, contract  
19 omissions, interpretations and false unfounded  
20 assumptions. As I show you in my 11 March.

21 [REDACTED]: You indicated just now in  
22 the area of the safety, that maybe your views  
23 have changed based upon --

1 MR. DANIELS: For lack of additional  
2 information or what was the current events on that  
3 safety issue.

4 [REDACTED]: And, was that specifically  
5 and limited to the letter that [REDACTED] issued  
6 for the million dollars?

7 MR. DANIELS: Yes.

8 [REDACTED]: And, only in that one area?

9 MR. DANIELS: No, see, I don't know what  
10 came before that or after.

11 [REDACTED]: In terms of what, the  
12 launchers being safe or?

13 MR. DANIELS: The launchers being safe,  
14 the launchers being mitigated, whether the Get-  
15 Well Plan had actually been implemented and the  
16 launchers have been remedied by Lockheed to be  
17 safe and compliant. I have no knowledge of that  
18 ever having taken place.

19 [REDACTED]: And, based upon our  
20 discussions the last two days, is that an area  
21 where your views may change, based upon what  
22 you've heard?

23 MR. DANIELS: Not based on what I've



1 heard, but probably based upon if I could get some  
2 additional information as to when that Get-Well  
3 Plan was actually implemented and finalized.

4 [REDACTED]: So, then do you still  
5 believe that unsafe and defective launchers were  
6 deployed into combat zones during Operation Iraqi  
7 Freedom?

8 MR. DANIELS: Most definitely because as  
9 I stated before, I believe that the Get-Well Plan  
10 wasn't even agreed upon until I think the spring  
11 of 2003. And, the launchers had been already -- I  
12 think over a hundred launchers had already been  
13 accepted by that time. And, they were deployed in  
14 Desert Storm in 2003.

15 [REDACTED]: And, is that the  
16 documentation that you'd indicated you were going  
17 to try to locate and provide to us?

18 MR. DANIELS: About the --

19 [REDACTED]: The deployment of unsafe  
20 launchers into --

21 MR. DANIELS: You mean the actual date  
22 that the launchers were actually deployed into  
23 Iraq, the M270A1 launchers, yeah, I'm going to try

1 to locate that contract to find out exactly when  
2 they were sent.

3 [REDACTED]: Okay, thank you, I  
4 appreciate that.

5 MR. DANIELS: To try to find the support  
6 contract.

7 [REDACTED]: And, I appreciate your  
8 efforts to try to obtain the documentation which  
9 you discussed with us that you said might be  
10 available upon a closer examination of your files  
11 and other records. And when and if you are able  
12 to locate those, if you could send those to me, I  
13 would certainly appreciate that.

14 Is there any other comments regarding  
15 the interview that you'd like to make at this  
16 point in time?

17 MR. DANIELS: No, I've pretty much  
18 summed them up in my 11 March 2009 comments. And,  
19 I may have an addendum to it, but I'm not sure.

20 [REDACTED]: Understood. Well, with  
21 that said, then, Mr. Daniels, I feel as if I have  
22 concluded what I needed to accomplish, which was  
23 to conduct an interview with you to discuss these

1 six allegations.

2 I certainly appreciate your attendance,  
3 your forthrightness and your willingness to  
4 discuss with us the allegations, your views of the  
5 Army report and your own views pertaining to these  
6 allegations. I certainly thank you for that.

7 MR. DANIELS: Well, I would like to make  
8 one more thing since you've brought that up. I  
9 want to make sure that this, my last e-mail to you  
10 where we confirmed the meeting. (Witness  
11 examining documents.)

12 Yes, I want to make sure that's a part  
13 of my comments.

14 [REDACTED]: Yes, I have a copy of the  
15 e-mail to which you were just referring, which you  
16 just acknowledged, which is an e-mail you sent to  
17 me on July 9th, 2009.

18 MR. DANIELS: I would like to make that  
19 an exhibit because I want to make sure that is a  
20 part of the permanent file because I do think, and  
21 I still believe that until the allegation that I  
22 -- the additional allegation that I outlined in  
23 DI-09-0045 has been reasonably addressed by the

1 Department of the Army, I consider the case to  
2 still be open.

3 [REDACTED]: Understood, and we are  
4 marking that as Exhibit 22.

5 (Exhibit No. 22, being a four  
6 page document, dated Thursday, July  
7 09, 2009, 6:14 PM, was marked.

8 [REDACTED]: We will make copies and  
9 provide it to the reporter, and it will be  
10 included as part of the transcript.

11 Okay, Mr. Daniels, thank you very much.  
12 I appreciate your time and willingness to discuss  
13 the matter with us.

14 MR. DANIELS: Thank you.

15

16 END OF SWORN STATEMENT OF 15 JULY 2009

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## REPORTER'S CERTIFICATE


COUNTY OF MADISON )


STATE OF ALABAMA )

We, Beverly G. Slack and Mary E. Bishop, fully trained and qualified court reporters, do hereby certify that we were present at and reported the said oral proceedings in the foregoing case, that we by computer aided transcription, transcribed the oral testimony and that the foregoing contains a true and accurate transcription of all portions of said oral testimony on the dates herein indicated.

We certify that we are not related by either blood or marriage to any of the parties or their representatives, that we have not acted as counsel to or for any of the parties; nor are we otherwise interested in the outcome of said case.

We further certify that we have maintained the confidentiality of this process by not disclosing any information concerning this matter to any person; that we have prepared this transcript independently, without the input or assistance from any person; and that we have not permitted any person to review the transcript.

  
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 COURT REPORTER, NOTARY  
 PUBLIC, STATE AT LARGE.  
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 BEVERLY G. SLACK,  
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