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Next

Contents

*Breaking New Ground***CIA's Role in the Pan Am 103 Investigation and Trial (U)**[redacted] *Oral History Program Interviewer*

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On 21 December 1988, Pan American flight 103, a Boeing 747, took off from London, bound for New York City. As it was climbing on its northerly flight path, it exploded over Lockerbie, Scotland. All 259 passengers and crewmembers and 11 people on the ground were killed. One CIA employee, Matt Gannon, [redacted]

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was on board. After more than 11 years of determined investigation by many officials in many countries, two Libyans were tried for the crime before a Scottish court convened in the Netherlands. One was convicted. This article focuses on the CIA's contribution to the investigation and trial, as it is remembered by Agency officers involved. The officers recount the CIA's engagement in the hunt for those responsible, the discovery and assessment of key pieces of evidence, and the successful prosecution. This is the story of a jigsaw puzzle's assembly by cooperating law enforcement, intelligence, and legal personnel. The officers conclude by offering the lessons they believe the CIA learned from the experience. (U)

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Below are excerpts from interviews of seven Agency officers. Working for the CIA's Oral History Program, [redacted] conducted the interviews in 2002, shortly after the trial. The interview transcripts are held in the CIA History Staff, Center for the Study of Intelligence. (U)

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The Crime (U)

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[redacted] the senior Directorate of Operations (DO) officer responsible for the case during its prosecution phase describes the attack and the apparent motive: [redacted] Chief of the [CIA] Counterterrorist Center (CTC), always speculated that Pan Am 103 was brought down as payback for the US air raids against Tripoli in which Qadhafi's stepdaughter was killed; and that might well be the truth.¹ (S)

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What emerged during the trial, in the testimony, and what was previously indicated in the indictment was that apparently a deliberate effort had been made to search for a way to bring down an American plane. Somewhere along the line, it's not clear just when the light went on, . . . the Libyans got the bright idea that they could insinuate a piece of luggage into the system at Malta Airport--unaccompanied baggage--send it as checked luggage through the connector flight from Malta to Frankfurt, have it automatically transferred to a Pan Am feeder flight from Frankfurt to

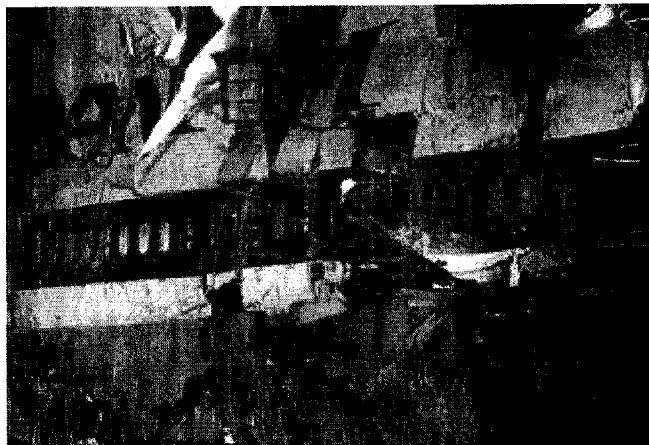
London, and finally have it automatically transferred to Pan Am 103, which originated in London. (U)

The bomb was probably supposed to explode when the plane was over the ocean. It did not because of the weather that night. On that night, the jet stream was particularly strong from west to east, at about 150 miles an hour. The plane could not take off over Land's End, as it normally would, and fly straight out, from Heathrow straight out over the Atlantic. Instead, it headed overland, due north, and it reached cruising altitude [30,000 feet] just over Lockerbie, Scotland, and was just beginning to turn left. Lockerbie is within sight of the Irish Sea. (U)

They probably had just taken off the seatbelt sign and were just bringing out the drink carts. In another 90 seconds, that plane would have been over water. Had it followed the original flight path, it would have been miles out over water. We would never have found any evidence. (U)

There wasn't a lot of explosive in that bomb. There was only a couple of pounds, because it was put in a fairly small Toshiba Boombeat, I think it's called, portable radio. And it's probably just pure serendipity that that plane was brought down as it was, because a 747 is a very robust aircraft. It normally would take a lot to bring down that aircraft with all of its backup systems. (U)

From computer models and forensic evidence, the British and the FBI reconstructed just what happened when that bomb went off. They know precisely where the bomb was. They were able to pinpoint the exact luggage container, which they found. Obviously there had been an explosion in it, as it was shattered outward. They knew where in that luggage container the bag with the bomb was placed, because they had records, actually, of which bags went into what container, and they could tell, again, from the forensic evidence where it was. It was about two up from the bottom, and they knew where in the aircraft that luggage container was placed. And then they actually blew up some planes on the ground here to prove that theory. (U)



An engineer from the Air Crash Investigation Unit peers out from the reconstructed remains of the Pan am Boeing 747 that crashed in Lockerbie, Scotland. (U)
©Reuters 1998

They demonstrated that, because the luggage container was next to the wall of the aircraft, just under the business class section, about row 14, the force of the explosion and the explosive plasma, which came out from the bomb, had nowhere to go. It did not break the skin, the outer skin. It broke the inner skin, and then it spread up through the fuselage in a circular pattern between the outer skin and the inner skin. And essentially it went all the way around the aircraft. And then burst out. And it just cut the aircraft. It was like taking a huge cleaver and chopping off the nose of the aircraft. Which is why you had the cockpit section lying in the field, the famous picture where the Pan Am logo was visible. (U)

Initial Approach (U)

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Where to Look? (U)

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[Redacted] *recalls*: The immediate place, I think, everybody looked was toward the Palestinians, because there had been indications that the Palestinians had definitely been planning to bomb airliners. That was the initial link to Pan Am 103.

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[Redacted]

[Redacted] *elaborates on the initial direction of the search for suspects*: In fairly short order, within a month or so, it became clear that there were a number of potential leads . . . particularly the PFLP-GC, Ahmed Jebril's outfit,

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[Redacted]

there was a lot of additional anecdotal and fragmentary information that began coming in pointing to the Palestinians. To make a long story short, that focus continued for the next year to year-and-a-half. (S)

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The Break (U)

[Redacted] *recalls*: The sequence of events that really changed the focus to the Libyans [occurred] in the fall of 1989. Months after the plane went down, the Scots discovered a piece of [circuit board from] the timer that came from the bomb that destroyed Pan Am 103. A shredded shirt [containing the fragment] was found by a Scotsman walking his dog after the formal recovery effort had ended. (S)

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[Redacted] *Chief of the Litigation Division of the Office of General Counsel (OGC) and the*

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supervising Agency attorney on the case during the prosecution, describes the moment in 1989 that the key piece of evidence turned up in a field near Lockerbie: The shredded shirt . . . was some distance off from the main crash site. This [farmer] saw this fabric, looked at it, knew, of course, the plane had crashed . . . and brought it to the attention of the Scottish police. The shirt had been destroyed. However, . . . the label in the back of the collar had a tag that linked it to Mary's House, a clothing store in Malta. That's how [the Scottish investigators] were able to tie it to that store. The shirt was made of polyester fabric so the heat of the explosion had actually fused the timing device chip into the shirt so it didn't fall off when the man picked up the shirt. If he hadn't thought it was a piece of debris, or thought it was only a piece of litter and just left it there, we still might be searching to figure out what happened. (U)

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The Lockerbie police sent the shirt fragment to the Royal Armaments Research and Development Establishment military laboratories, where, as they were pulling the scorched fabric apart, they found the piece of circuit board from the timer. (U)

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The Libyans who ultimately went on trial for the Pan Am 103 bombing: Abd'al Basset, Ali Al-Megrahi (left) and Al-Amin Khalifa Fahima. (U)

Meanwhile, [redacted] explains, the Scots had linked the shirt fragment to Malta and the Libyans: . . . [By September 1989,] the Scots had begun their own investigations in Malta. They had come across Tony Gauci, the shop owner who ran the Mary's House clothing store [in Valletta]. And he's the one who recalled that he had sold such-and-such articles of clothing, similar to what was found at the crash site, to somebody that he said he could identify as Libyan. He didn't know the name.

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He did not know whether they were connected to the Libyan Airlines office, or the Embassy, or what. But he said that just by appearance, by language, he recognized them as Libyan. He identified them when he was a witness at the trial. (U)

Tom McCullough, the Detective Chief Superintendent from Dumfries and Galloway Constabulary, has been with this case since the night the plane went down. He was recovering bodies and was in charge of the temporary mortuary. Later, he emerged as the Chief Investigator and, in the last few years, has traveled to Libya, Jordan, Turkey, and all over Europe. McCullough has nominated Gauci for the [US] Department of Justice (DOJ) reward money in this case. McCullough says that the Scottish prosecutors viewed Gauci as probably the single most crucial witness in that whole process. He was able to make the connection to the Libyans. While the forensic evidence might have pointed to a Libyan connection, Gauci was the one who was able to put a face on the plot. (U)

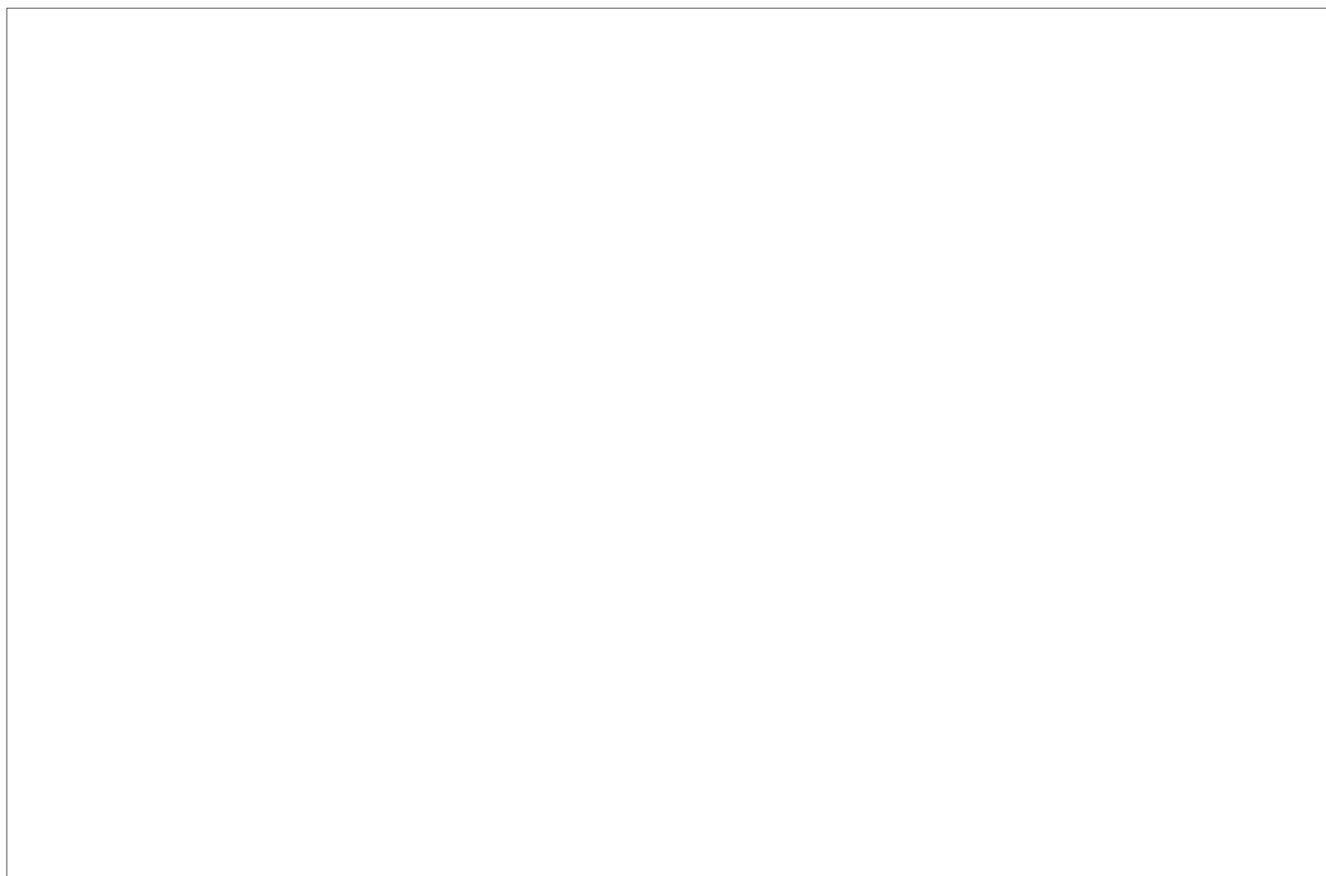
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CIA's Libyan Asset (U)

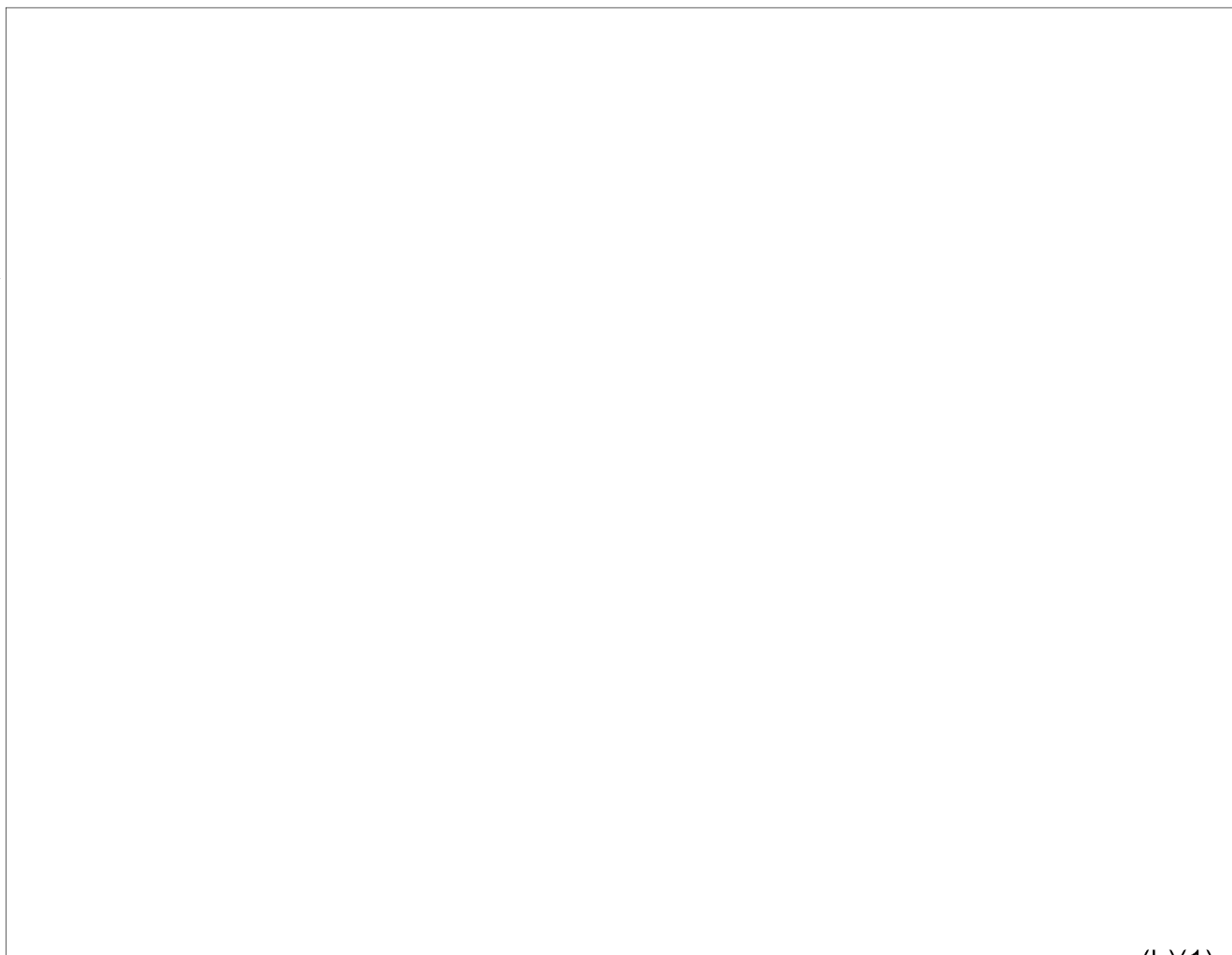
[redacted] *Abdul Majid Gaika, a Libyan intelligence officer,*
[redacted]
[redacted] *officers cultivated Majid, who,* [redacted]
[redacted] *provided information on the Libyan intelligence service and the activities of*

Libyan officers passing through Malta. Majid had no connection with the Pan Am bombing, but he held another of the keys to the solution of the puzzle. No one realized what he could offer, however, until the investigation of the Libyan connection had deepened as a result of the discovery of the circuit board piece and the account of the Maltese shopkeeper. (S)

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Even after the bombing, we did not suspect that the Libyans were behind it, and we certainly had no clue whatsoever that Al-Megrahi and Al-Amin Kalifa Fahima [who also went on trial] were involved or had anything to do with that bombing. In fact, when I first learned about their involvement in 1991, I was quite surprised, because there was a lot of speculation in Malta at the time that this was an Iranian sponsored attack in response to the incident that happened in the summer of 1988 where the US Navy ship VINCENNES shot down that Iranian Airbus. (S)

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Majid Connects the Puzzle Pieces (U)

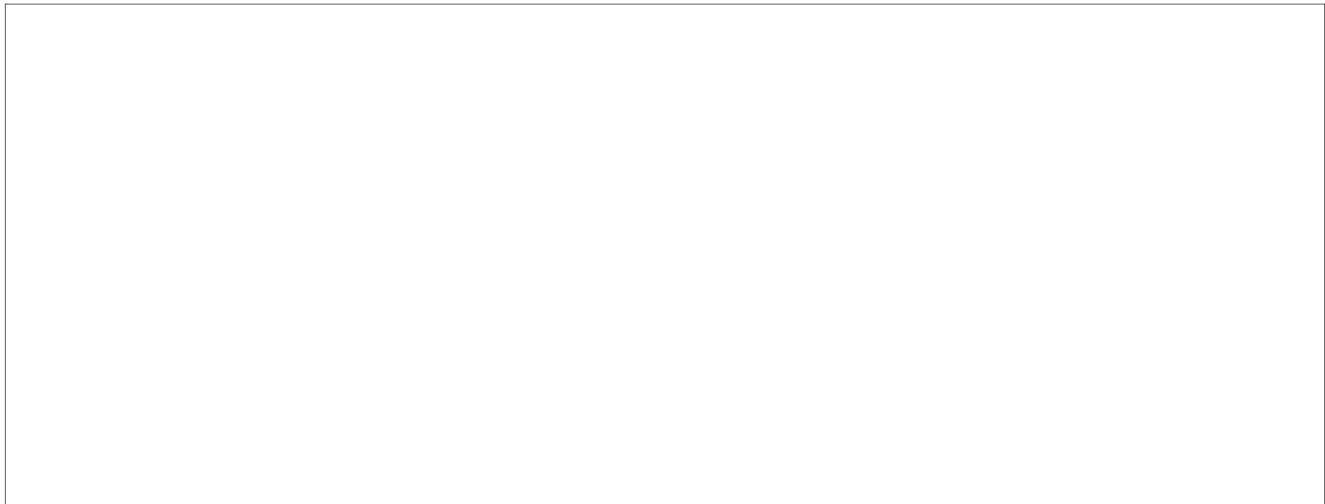
Understanding of Majid's utility to the Pan Am case and Al-Megrahi's role in the bombing unfolded over two years.



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Finally, in June 1991, we briefed the Justice Department on the possibility that the Libyans were the perpetrators of this tragedy. What Justice said they needed to prove the indictment was an expert witness from inside the Libyan Intelligence Service, the ESO, who could talk about how the ESO works. So we determined that [redacted] Majid [redacted] could certainly satisfy that need. We didn't think about it in terms of an absolute solution to Pan Am 103, we were just looking for an expert witness who would be available. (S)

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[redacted] describes Majid's role: We had at that time no indication [Majid] knew anything about Pan Am 103, but we knew he had been a Libyan intelligence officer and he could give us information about that intelligence service. [redacted]

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In the debriefings, he revealed for the first time that he had seen, the day before the bombing, a shiny brown Samsonite luggage taken off the carousel at Malta airport by Al-Megrahi, who was one of the suspects at that time, and therefore Majid became very important. (S)

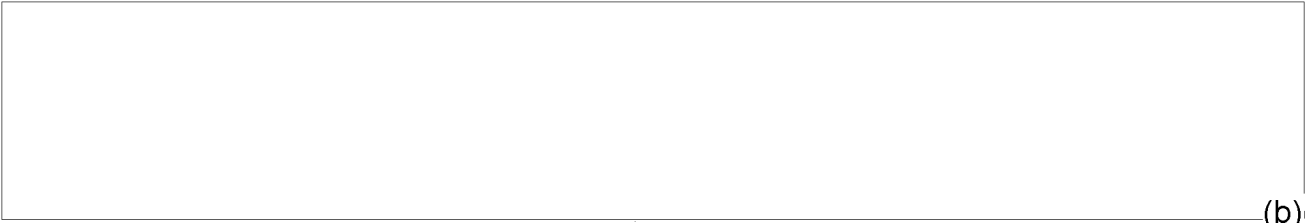
[redacted] adds: The more they [FBI] started investigating there in Malta, the more the leads were tugging them away from the Palestinians and towards the Libyans. And Phil [Reid, of the FBI] said that it wasn't really until Majid came out--and he was the first one to interview him [redacted]--that it became pretty apparent to him that this was a Libyan job and wasn't a Palestinian job. (S)

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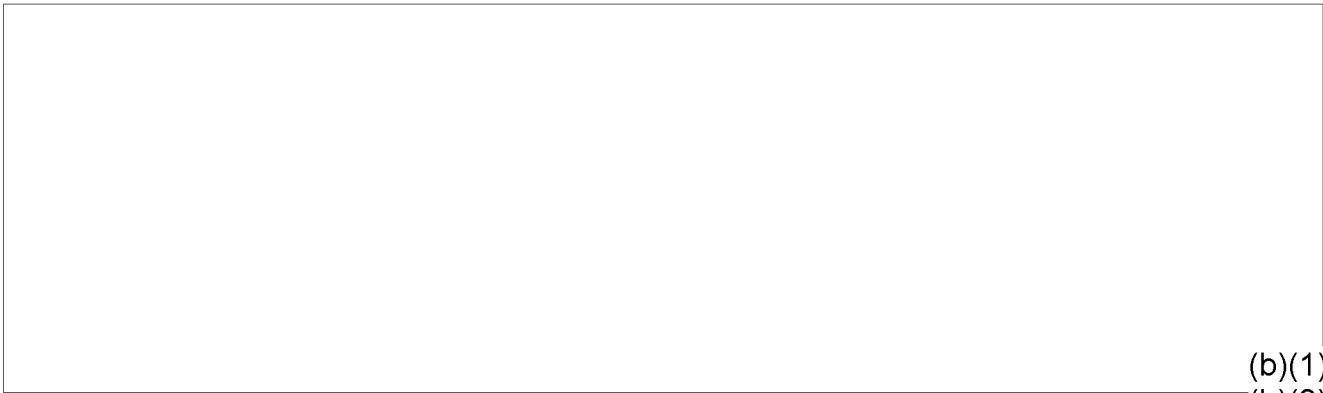
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Basically Majid's part in this was that he was connecting a lot of the pieces they had discovered, and that's why they called him "Puzzle Piece;" that was what the FBI's codeword for him was. They had first used a lot of our previous cables about him to come to that conclusion. Then, when the FBI started interviewing him, and he started providing specific data and filling in some gaps, he put a number of things into perspective for them. This is when it became apparent that, yes, this was a Libyan operation. (S)

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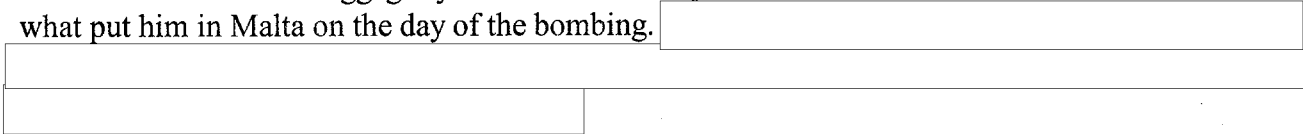


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The key thing that came out during the trial was the fact that the Libyans had given him a false passport in that [alias] name and he was in Malta at the right time to arrange for the insertion of the bomb suitcase into the luggage system that eventually carried it to Pan Am 103. The alias was what put him in Malta on the day of the bombing.



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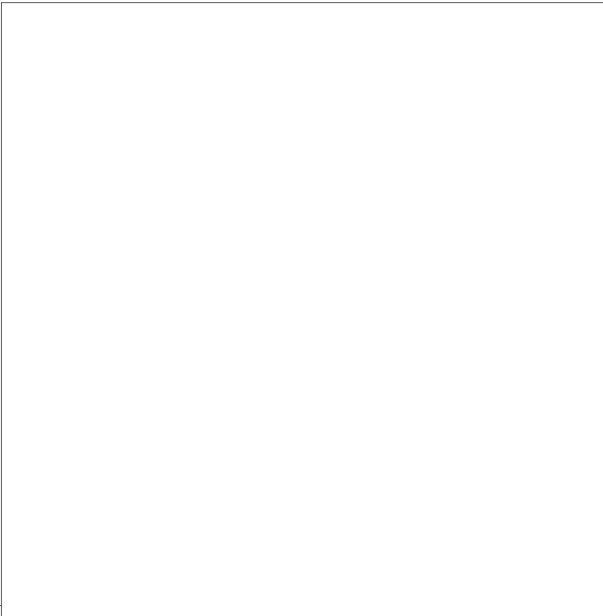
Supporting the Prosecution (U)

[redacted] describes the evolution of the Agency's role in the prosecution and trial of the Libyans Al-Megrahi and Fahima at the Scottish Court in the Netherlands : We [the Office of General Counsel] gave our first briefing to the DCI in early 1999, and, at that point, he looked directly at all of us and said: "This is very important to me. I want you to be forward-leaning, do all that you can to help." And it was understood that there were things in this case [we were going to have to do] that were counterintuitive to us in the intelligence business. We're used to protecting our secrets. And it was going to be a push, but he instructed us to go forth and cooperate as much as we could. (S)

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Artist's rendition of Libyan defendants Al-Megrahi and Fahima as a witness testifies during the Pan Am 103 trial in the Netherlands. (U)



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[REDACTED]

When we were first told that Qadhafi had produced the defendants and we were actually going to have a trial, the two Department of Justice attorneys, Dana Biehl and Brian Murtagh, sent a request to us saying that, "We're going to need to see all of your files relating to Pan Am 103. The prosecution is going forward. The United States government is going to be directly prosecuting the defendants." (S)

We weren't happy about that. Then Justice became unhappy when they learned that they weren't actually undertaking the prosecution, but there was an agreement made by the State Department and Justice to assist the Scots, who were conducting the prosecution, and we were to help in any way we could. So the Justice attorneys came to [CIA] Headquarters. We accumulated all the files.

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The Department of Justice, these two attorneys [Murtagh and Biehl] from the Terrorism and Violent Crime Section, came out and reviewed as many of the documents as they could. [REDACTED]

[REDACTED] But they got to the pertinent and most important material. One obvious thing that they wanted to see was the 201 file on Majid.⁴ So they spent a lot of time going through that with a fine-tooth comb. They found the documents that they determined to be relevant to the case and helpful to the Scottish prosecutors. At that point, we began the redaction process to declassify the documents that they asked for, which took awhile. DOJ came over, and we went back and forth with the DO Information Review Officer to discuss the scope of the redactions. (S)

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The Trial (U)

[REDACTED] from OGC's Litigation Division, recalls: We had two issues that had to be dealt with. One was our dealings with Majid, and how that was going to come before the trial. The second involved the timers, and how we were going to prove that this little chip had something to do with or was connected to Libya. We couldn't obviously connect the chip to these defendants. But we could connect it to Libya and that was going to suggest it came from somewhere in the Libyan intelligence organization. (S)

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The Scottish legal system is much different from the US legal system. It requires much more supported background information for [something] to get in [as evidence]. So, for example, the CIA's cables about its meetings with Majid . . . were going to be needed in this trial, because Majid's memory was sketchy, and he was not the world's best witness, by any stretch of the imagination. He was high-strung, and not overly bright, and there were some other issues, as well. And his testimony would not have been credible if the Court actually came to these conclusions. (S)

Majid's testimony and evidence were supported by these cables that would indicate that he said

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what he said at a time when he had no reason to say anything else, unless you really believe in a huge conspiracy theory. The cables would support what he said in 1988. There was a question of whether the Court was going to let those cables be used [especially if they were redacted to protect security information]. We don't let our cables be seen by just anybody, and certainly don't want them being seen by foreigners, especially Libyans, who might learn about our sources and methods and tradecraft. (S)

At the time, we weren't going to acknowledge our presence [in Malta] and it wasn't [widely] known that Majid existed. I mean, we knew. DOJ knew. The Scots knew. But the rest of the world didn't know that Majid was a CIA agent, or that we had this particular specific information. So there was first the question of how was the CIA going to get involved in this at all. Next we were not sure what it would take to get these cables introduced into evidence. (S)

elaborates: The [Scots] are even more particular about authentication than we are. Under Scottish law, we would have to acknowledge that they were CIA documents. We would have to have the cables revealed, and we'd have to have someone testify that they, in fact, had received the information from Majid, that they had then gone ahead and written down the information in these cables. (S)

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It took a seemingly unusual act of faith by the court to accept that potentially exculpatory information had not been redacted from the CIA cables that were introduced. describes how it happened: In this case, the Lord Advocate had never seen the minimally redacted cables, and he said [to the Court], "Well, these are the cables. This is all I've seen." The Court says, "We think there's more out there . . . can you go find out?" The Lord Advocate then came back to the Court after reading the minimally redacted cables and said, "This is what we can have. I've now gone through it. I sat down with the CIA and we went through them one-by-one. I am satisfied that the only thing that is left out is something that's actually national security." And the Court said, "Okay. We believe you." The defense whined about it, and the Court said, "Well, I'm sorry. This is the way it is." (S)

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Weighing Majid's Testimony (U)

recalls the testimony of the CIA asset, who took a pretty severe beating during cross-examination: Because of the fact that [Majid] had never told us about the luggage [until long after the bombing], he was crucified during cross-examination. But the FBI took him, put him in the witness protection program. (S)

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[Redacted]

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CIA Officers as Witnesses (U)

Arranging the appearance of undercover CIA officers required extraordinary measures. [Redacted]

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[Redacted] *recounts what was needed* : Our witnesses were in disguise, in aliases, their voices were altered, and, although the Court was open to the public, there was a closed-circuit TV that was broadcast to other parts of the Court, back to New York, DC, and London, where there were offices set up solely for the family members of the crash victims. You had to have a special pass to get in. There was also a media center, where the media could watch, but they couldn't videotape it. The media were only allowed to sketch and take notes. (S)

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The judges, the defendants, the defense counsel, and the prosecution could see the witnesses. There was a screen put up when our witnesses testified to block them from the gallery and the public. And the closed-circuit TV cameras were degraded so you couldn't see the person. You could barely tell it was a person, and their voices were degraded . . . they sounded like Darth Vader. It was very unusual. (S)

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Agency officers helped establish that the timer used in the bombing was of Libyan origin. This involved testimony not only from the [Redacted] officer who had made the connection, [Redacted] but also from an officer involved in the arrest in Senegal of the Lib-yans who had brought explosives and a MEBO timer into the country. [Redacted] recalls : The first [witness] was [Redacted] in Senegal [Redacted] when the Libyans were arrested, which didn't come out during the trial, so I think it's probably still classified, [Redacted]

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[Redacted]

When the Libyans got off the plane, the police were there and arrested them as they were ente Senegal. The Agency was involved in that [Redacted] saw them being arrested and taken i the VIP Lounge at the Senegal Airport. Subsequently, he saw them in prison a couple of days later. Then he was involved in making arrangements for [Redacted] officers to examine the device and the

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explosives and to take pictures of them. That was the substance of his testimony during the trial. (S)

The second Agency witness was the Agency officer who took pictures of the Senegal timer. He testified about and showed pictures of all the things that were taken out of the Libyan's briefcase--a pistol, Semtex explosive, and the timer. Fortunately, he had gotten some pretty good pictures. At one point, he had tried to take the timer casing apart, but the Senegalese wouldn't let him. He testified to all of that, which went pretty well. The pictures were very important to show that these were the same type of chip, same type of timer used to destroy Pan Am 103, and how it related to the way the Libyans operate. So the Agency testimony was a big part of establishing that. (S)

It didn't take a lot of work for the prosecution to link the timer in Senegal to be exclusive with the Libyans once Messier and Bollier, the timer's manufacturers, testified. They admitted to the fact that these were [MEBO] timers, which were sold to the Libyans, but not exclusively. The owners said they had sold a small number to the Stasi, the East Germans. It's hard to prove a negative, that nobody else had them, but Bollier testified that he had sold 25 of these timers to the Libyans. He had taken them there, and the Libyans had taken him out to the desert, and he had done tests for them, and helped them configure the timers, and showed them how to use them. There's always the possibility the Libyans could have sold them to somebody themselves, or something crazy like that could have happened, but there was no evidence supporting that theory throughout the trial. (S)

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describes his testimony at the trial: Meister . . . testified before I did. They showed him the fragment again, and he said, "Oh, well, this is a green circuit board. We only use green circuit boards for the Libyans. We use brown circuit boards for the PFLP-GC." So when I went in October and [redacted] met me there, I said, "What do you need me for? He's already testified that it's theirs and that Libya was the customer." [redacted] said, "Well, I think they want you to talk about how the ice cube timer [used by the Palestinians] works." So I sat down with the prosecuting attorneys the night before I testified and went through that. I came away from that session and I said, "I still don't know why I'm here. They don't know what to do with my testimony." So I felt very uncomfortable. (S)

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The trial got delayed or adjourned for three weeks, while they went chasing leads and trying to resolve some issues. I went back in late October, and, again, the night before, I sat down with the prosecuting attorneys. And this time, God bless them, they had a nice script all put together. One of the prosecutors said, "I'm going to talk about your background. What your technical qualifications are, then I want you to describe for me the ice cube timer." He was using me as just a technical witness. "Forget about [redacted] coming to see you. We don't need that." What they were trying to do was to essentially refute the defense's case before the defense had a chance to present it. And so he says "I want you to talk about the technology here, the technology there, then compare the two." So I testified for about 40 minutes on the stand. (S)

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There were two defense attorneys, of course, one for Fahima, one for Megrahi. I had been warned that they were like a good cop, bad cop routine. Fahimah's was the nice guy, and he would ask these very nice questions, and then the other attorney would jump up and call you a liar and question your parentage and everything else, trying to get you upset, saying something like, "We obviously can't accept any of that testimony." And he was very successful doing that with a few of the witnesses. (S)

So the prosecution went through their routine, following the script, which was great, as I knew where they were going. [A prosecutor] had told me, "Don't give me more than what I ask you. Just answer the question but don't elaborate. And if I want more, I know what you know, I'll ask you and I'll draw it out of you. Let me pull it out." So I knew where he was going and this was good, so we went through the 40 minutes of testimony and Fahimah's attorney got up and said, "No questions, my Lord." (S)

And then Megrahi's attorney gets up and asks, "Is it true today, and in fact in the 1980s, that any electronic equipment would contain electronic components?" My first question was what did they mean by that? And then I thought, that's not what he's trying to ask me. What is it he's trying to ask me? But then I thought, no don't figure it out for him. I'm not here to help the defense, so my answer was--and I thought I can't give him a smart ass answer either--so I said, "By definition, sir." That was my answer, "By definition." Electronic components, that's what makes it a piece of electronic equipment. And he says, "And therefore it would also contain circuit boards?" And I said, "Not always." And he says, "But in the majority of the cases," or "by far and away," or something like that. And I said, "Yes, normally it would." "No more questions." (S)

_____ comments on this testimony: What _____ brought to the trial was to differentiate (b)(3)
between the PFLP-GC's altimeter timers and the MST-13. And that was very important, because (b)(3)
their whole defense was basically premised on the fact that the PFLP-GC bombed Pan Am 103 and (b)(3)
not the Libyans. _____ got rave reviews from the Scottish prosecutors and the Department of Justice (b)(3)
attorneys for his testimony. The Department of Justice attorneys stayed there the whole time, (b)(3)
throughout the trial. They actually were allowed to sit in the benches with the Scottish prosecution, (b)(3)
which is very unusual. After _____ testified, they came over, and one of the DOJ prosecutors said (b)(3)
that he thought that was the best witness that he had seen. And I don't think he was just making us (b)(3)
feel good. But _____ was very convincing, and very authoritative. He was our expert witness. And (b)(3)
he, unequivocally, demonstrated that the timers the PFLP-GC used, which are called ice cube (b)(3)
timers, were outdated, and totally, 100 percent, different in their construction from the MST-13 (b)(3)
that the Libyans used. And nowhere nearly as sophisticated. That was extraordinarily important to (b)(3)
achieving the conviction. (S)

Logistics (U)

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_____ recalls the situation at the scene : _____
_____ We didn't know what to expect, we didn't know if
there'd be a lot of media coverage. By the time our witnesses had to testify, everyone was bored
with the trial and there wasn't much media coverage at all. There was one reporter around, and no
one was taking pictures. We ended up using all those support people, but I think there was a
thought that maybe we don't need to do this as extremely as it started. (S)

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[redacted] offers another take : [redacted]

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[redacted] We went to Scotland and we got a tour of the crash site. We spoke to the poli- officers who were there that night, who told us what they had seen. They took us to the evide- room and showed us all the suitcases and pictures. We met with the Chief Constable of Dumfries and Galloway, who was responsible for the whole case.

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[redacted]

(b)(1)
(b)(3)

[redacted] reflects on the preparations made to bring the agent's handlers to the trial and the prosecution's decision not to use them : . . . the decision was made by the Crown Office not to put [Majid's] [redacted] handlers on [the stand] . . . Those officers each traveled to the trial two or three times. So each of them really went out of his way a number of times to come and stand by, go through the whole security rigmarole, in disguise [redacted] waiting, ready to go. And . . . the lead solicitor decided . . . that the prosecution had made their case adequately, they'd established the facts they wanted to establish, and if they put these fellows on the stand, the defense would keep questioning them until they got into areas that these officers could not talk about. (S)

(b)(3)

(b)(3)

We all felt that it was unfortunate that they did not testify. They felt frustrated that they did not appear, because, had they appeared, they probably would have been able to bolster Majid's credibility. They would have been able to corroborate and expand on a number of things that M had testified about but on which he had been badgered and belabored and picked apart by the defense. (S)

(b)(1)
(b)(3)

[redacted] offers another observation about the unique circumstances in a foreign court : The other complicated thing about this case was the foreign soil facet . . . Actually the Scottish Court was a country within another country.

(b)(3)

[redacted]

Protecting Intelligence Secrets (U)

(b)(1)
(b)(3)

[redacted] mentions several of the accommodations that the Agency had to make at the trial: One was [acknowledgment] that the Agency had a station in Senegal, at least during "X" period of time, and a particular Agency officer was responsible there. One of the really big ones was that we were running unilateral operations in Malta.

[redacted]

[redacted] We had to admit everything involving our asset, Majid, and that, in Malta, we

(b)(1)
(b)(3)

(b)(3)

(b)(3)

recruited somebody out of the Libyan External Intelligence Service. (S)

(b)(1)

(b)(3)

[redacted] adds: Two things [of special note]: One, the provision of highly sensitive and critical documents, that is DO operational cables, although redacted, but, in the end, redacted minimally--very minimally--in an international criminal trial--not a US trial--for the first time. And, second, passing them, essentially, to the Libyans, because they were given to the defense. It was the same as telling the Libyans what we were doing, how we were "reading their mail" through Majid. There were no questions about what the extent and nature was of our relationship with Majid. They knew previously that Majid had defected to this country, that Majid was going to be a witness. But they certainly didn't know the details of his relationship with CIA that came out subsequently. That was a real departure. (S)

(b)(3)

Another unique thing is, similarly, providing the witnesses. We were prepared to put on the stand half a dozen serving officers--

[redacted] which had never been done before. Then the whole facilitative, [redacted] piece had to be pulled together, which was probably the bulk of my effort and my contribution in this project. Beyond that, it was clear to everybody, it was clear to the judges, it was certainly clear to the defense, clear to the public, that CIA was heavily invested in this trial. That meant something. That meant CIA had something. We weren't just concocting this stuff. I think the judges, realizing as they did that we had taken extraordinary steps in providing (b)(1) witnesses and documents, probably tended to give a little more weight to some of the witnesses (b)(3) and some of the argumentation by the prosecution. (S)

Lessons (U)

The Scottish Court presiding over the trial of the two Libyans announced its verdict on 31 January 2001. Megrahi was found guilty of murder and was sentenced to no less than 27-years' imprisonment under Scottish law. His co-defendant, Al-Amin Khalifa Fahima, was acquitted; the Court concluded that the evidence in his case was insufficient to satisfy the high standard of "proof beyond reasonable doubt." An appeal by Megrahi was rejected, and he remains in a Scottish prison. The verdict also led the Libyans to openly acknowledge their culpability and to offer compensation to the families of the victims. (U)

Reflecting back on the long process, [redacted] said he was proud of everyone who pitched in to support the Pan Am 103 trial. Asked to reflect on lessons learned from the experience, he suggested that CIA should remember its proper role: I think we have to recognize that we are an intelligence organization, not a law enforcement organization. We shouldn't be collecting evidence, except in those very narrow situations, counterintelligence situations, where we have a charter to do that. I think we have to be very careful about how we provide our intelligence and our operational information in support of law enforcement, if for no other reason than to protect it and our clandestine sources from the scrutiny that it's going to come under in a judicial setting, where it should come under scrutiny. I think that intelligence is a marvelous mechanism to enable law enforcement people to go after evidence and get evidence that can stand up in a court of law. But I

(b)(3)

(b)(3)

don't think intelligence is a substitute for that. (S)

This was one of those extraordinary cases where, after sitting down and looking at it, and talking to our lawyers, and talking to the Scottish investigators, talking to the prosecution, and getting a good perspective on this from people like [redacted] who saw the strategic dynamic, that we had to give that information up, and it had to go out as evidence, because there was no other way that it was going to be . . . that there was no substitute available. And without that, the verdict would not have come out the way it did. (S)

(b)(3)

Asked if he would do anything differently [redacted] *responds:* No, I don't think so. We got a guilty verdict [for Al-Megrahi] and were able to provide a definitive answer to the family members of the victims of Pan Am Flight 103 that the Libyans definitely were behind this. That was the lingering question that we wanted answered by a court of law. And that's what we got. We accomplished it within the framework of Scottish Law. Indeed, it was a rather significant feat." (S)

(b)(3)

[redacted] *concluded:* [redacted]
[redacted] We were determined to find solutions and to take that extra risk so that this trial could take place. From the operations officers, to the security protective personnel, to the lawyers, all of us worked long hours and weekends to solve problems. "We can't do it" was never muttered. I can say that from the professionalism of the officers I got to work with during this entire episode, I have no doubts that CIA is the best intelligence service in the world. (S/NF)

(b)(3)

Footnotes:

1 An exchange of tactical missiles between Libya and the United States during US naval maneuvers in the Mediteranean in March 1986, and the subsequent bombing by Libyan operatives of a discotheque frequented by US soldiers in Germany, led Washington to launch air raids against Libyan targets linked to terrorism on the night of 15 April 1986. (U)

(b)(1)
(b)(3)

2 Trial testimony underlined the time it took Scottish authorities to process and evaluate the huge volume of debris. The shirt fragment--a piece of collar--bearing the timer fragment was logge as evidence in January 1989. The finger-nail sized piece of the circuit board was discovered ir May, among other pieces of plastic, metal, wire, and paper imbedded in the shirt fragment. In September, the Scottish investigators asked for help from London in identifying it. (U)

(b)(1)
(b)(3)

3 [redacted]
[redacted]

(b)(1)
(b)(3)

4 A CIA 201 file is the official file containing all biographic reporting on and references to an individual of specific interest to the Directorate of Operations, including personal history and operational assessments. [redacted]

(b)(3)

5 According to [redacted] the Court didn't believe Majid on a lot of his points because the justices never saw a second, more extensive, batch of redacted cables, which would have confirmed much of what he said in court. (U)

(b)(3)

(b)(3)

served in the CIA's Office of General Counsel. (U)

(b)(3)

(b)(3)

[Next](#) [Contents](#)

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