

**IN THE
INTER-AMERICAN COMMISSION ON HUMAN RIGHTS**

MOHAMMAD RAHIM,

v.
UNITED STATES.

Case

PETITION

Dated: March 20, 2017

*Respectfully submitted on behalf of
Mohammad Rahim*

Major James Valentine, USMC
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**Petition to the Inter-American Commission on Human Rights on Behalf of Mr.
Mohammad Rahim
March 20 2017**

PRELIMINARY STATEMENT

THE INTER-AMERICAN COMMISSION MUST GRANT REVIEW
OF THIS PETITION BECAUSE THE UNITED STATES
GOVERNMENT, IN PARTICULAR THE CENTRAL
INTELLIGENCE AGENCY, HAS COMMITTED CRIMES OF
TORTURE AGAINST MOHAMMAD RAHIM AND
SUBSEQUENTLY DECLARED HIM A “FOREVER PRISONER” BY
STATING THAT IT HAS NO INTENTION OF TRYING HIM IN A
CRIMINAL PROCEEDING OR OF RELEASING HIM FROM THE
HIGHLY SECRETIVE PRISON, CAMP 7, IN GUANTANAMO BAY
CUBA – AS DOING SO WOULD REVEAL THE FULL EXTENT OF
HIS TORTURE AND THE CRIMES OF THE UNITED STATES
GOVERNMENT AND THE CIA.

Section I. Information on the Alleged Victim and Petitioner

1. Information on the Alleged Victim

Name: Mohammad Rahim

Gender: Male

Date of Birth: 1965 (approx.)

Mailing Address:

Staff Judge Advocate
Joint Task Force – Guantanamo
APO AE 09522-9998
United States of America

Telephone Number: None

Fax Number: None

Is the alleged victim deprived of liberty: Yes

Additional information about the alleged victim:

Mohammad Rahim is a fifty two year-old native of Nangarhar Province, Afghanistan. On or about June 25, 2007, he was captured and tortured by the CIA for a period of approximately nine months. He was subsequently transferred to Guantanamo Bay where he has been held, without trial and without adequate medical treatment, for almost a decade, in a Top Secret facility, Camp 7, in order to suppress the facts and circumstances related to his torture and detention.

2. Information on the Family Members

Not provided because of safety and well-being concerns regarding Mr. Mohammad Rahim's family.

3. Data on the Petitioner

Name of the petitioner: Major James D. Valentine, United States Marine Corps

Mailing address: MCDO 1620 Defense Pentagon, Washington, DC 20301-1600.

Email: james.valentine@osd.mil

Do you want the IACHR to keep your identity as petitioner confidential during the procedure?: No.

Additional information about the petitioner: Major Valentine is a United States Marine Corps Judge Advocate assigned by the Military Commissions Defense Organization to advocate on behalf of Mohammad Rahim.

4. Is your petition related to a previous petition or a request for precautionary measures? No.

Have you previously submitted a petition to the Commission concerning these same facts? No.

Have you submitted a request for precautionary measures to the Commission concerning these same facts?

The request for precautionary measures is included at the end of this petition.

Section II: Facts Alleged

1. Member state of the OAS against which the complaint is submitted:

The United States of America.

2. Facts:

Mohammad Rahim has been arbitrarily detained at the U.S. Naval Base at Guantánamo Bay, Cuba for nearly ten years. He was captured in Pakistan on or about June 25, 2007, and was quickly turned over to the Central Intelligence Agency (CIA) following a brief period of physical beatings by the Pakistani Inter Services Agency (ISI). Within days, he was taken to an undisclosed secret detention facility where he was subject to “enhanced interrogation techniques” (EITs) inflicted by the Central Intelligence Agency (CIA) for approximately nine months as part of the notorious Rendition, Detention and Interrogation (RDI) program, which is now commonly known as “Torture Program.” He was the last known person admitted into the Torture Program.¹

Mohammad Rahim was detained and tortured by the US government, not because of any alleged position of authority within a terrorist organization or because of any alleged offense he committed, but strictly because of what information he might have related to the escape of Osama bin Laden from the Tora Bora mountains in December 2002. As a result, the individuals within the CIA who authorized and executed his torture first obtained approval from more senior United States government officials to conduct his torture and interrogation since he himself had committed no serious offense.²

After approximately nine months of torture at an undisclosed location, Mohammad Rahim was sent on a military cargo plane to Guantanamo Bay. He was blindfolded, shackled at the waist, and chained to the floor of the plane. Upon arrival, he was placed in a secret prison, Camp 7, where he remains indefinitely detained as a “high value detainee (HVD)” in order to conceal the history of his torture.

The United States has never admitted to the full extent of the physical torture it conducted on Mohammad Rahim. On the contrary, the United States government has

¹ Executive Summary, Findings and Conclusions, and Foreword by Senate Select Committee on Intelligence (SSCI) Chairman Dianne Feinstein, of the Senate Select Committee on Intelligence’s study of the Central Intelligence Agency’s Detention and Interrogation Program, released on or about December of 2014 (SSCI “Torture Report”) at 143. Attachment A. Available at: http://www.feinstein.senate.gov/public/_cache/files/7/c/7c85429a-ec38-4bb5-968f-289799bf6d0e/D87288C34A6D9FF736F9459ABCF83210.sscistudy1.pdf

² See SSCI at 13, explaining the CIA’s expansion of detention authority.

refused to provide access to his medical records or to provide medical treatment for the effects of his torture including, specifically but not exclusively, rehabilitation of his visibly mangled wrists and forearms following months of periodic hanging by the CIA.

The United States government never revealed or confirmed any facts related to the torture of Mohammad Rahim until December 9, 2014, when the United States Senate Select Committee on Intelligence released redacted portions of the executive summary of the “Committee Study of the Central Intelligence Agency’s Detention and Interrogation Program,” which confirmed the failed attempt to extract meaningful intelligence from Mohammad Rahim despite nine months of torture by the CIA.³

On May 23, 2016, the lead prosecutor of the Military Commissions at Guantanamo Bay, issued a signed statement admitting that the United States government had no intention of bringing formal charges against Mohammad Rahim.⁴

During his decade in captivity, the United States government has offered Mr. Mohammad no means of reviewing or challenging his detention. On February 9, 2009, the United States government conducted a review of Mohammad Rahim’s detention as part of the now defunct, Combatant Status Review Board (CSRB). He did not receive another administrative review for over seven years until September 19, 2016, when a Periodic Review Board (PRB) reviewed his detention and summarily denied his release.⁵ Neither Mohammad Rahim nor his counsel were permitted to know what the evidence against him or the full extent of the allegations were at the PRB.

Mohammad Rahim, like all of the men detained in Guantánamo, still has no meaningful or effective judicial remedy to challenge his arbitrary and indefinite detention. Although the U.S. Supreme Court, at one point, affirmed the jurisdiction of U.S. federal courts to hear Guantánamo detainees’ habeas corpus petitions,⁶ and reaffirmed detainees’ constitutionally protected right to bring habeas corpus petitions,⁷ federal appellate courts have since eroded the due process protections to the point where currently there is no activity in Guantanamo related habeas litigation in the United States federal courts.

³ See SSCI at 167.

⁴ Attachment B, Memorandum For The Periodic Review Board dated 23 May 2016, signed by Brigadier General Mark Martins, USA, Chief Prosecutor, Military Commissions.

⁵ Attachment C, Periodic Review Board Memorandum dated September 19, 2016, regurgitating the original vague and unsupported accusations against Mohammad Rahim that led to his torture based interrogation.

⁶ See *Rasul v. Bush*, 542 U.S. 466, 467 (2004); see also *Hamdan v. Rumsfeld*, 548 U.S. 557 (2006).

⁷ *Boumediene v. Bush*, 553 U.S. 723, 771, 791-92 (2008).

As a result of the United States government's expressed intention never to prosecute Mohammad Rahim in a criminal proceeding or to provide any means of redress through the federal courts, as well as the United States government's announcement, through the Periodic Review Board, not to release him despite approximately nine years of detention in Camp 7, Mohammad Rahim is what has been described as a "forever prisoner."

Moreover, Mr. Mohammad's status as a "forever prisoner" at Guantanamo Bay is unique among the men who remain detained there because he is the only surviving torture victim of the CIA's rendition and interrogation program who remains hidden in Camp 7 and has never and will never be offered the opportunity for a trial.

Mohammad Rahim has been tortured, indefinitely detained, stripped of his private and family life, and denied legal recourse. These facts constitute grave violations of his human rights as protected by the American Declaration of the Rights and Duties of Man (American Declaration) and must be addressed by this honorable governing body. On August 5, 2015, the Inter-American Commission published the report "Towards the Closure of Guantánamo." Yet, Mohammad Rahim's unique status as a torture victim and a "forever prisoner" of the United States government, make this Petition uniquely worthy of being granted full consideration by the Inter-American Commission in order to specifically investigate and address the indefinite detention of a torture victim by the United States government solely for the purpose of suppressing and concealing the evidence of the state's crimes.

3. Authorities allegedly responsible (and why you consider the State responsible for the alleged violations):

The U.S. Government has maintained absolute control of Mohammad Rahim since it abducted him in Lahore, Pakistan, in conjunction with local intelligence support, on or about June 25, 2007. Thus, the U.S. Government is completely and solely responsible for the violations of his fundamental rights within the purview of the Inter American Commission of Human Rights.

4. Human Rights Allegedly Violated:

The following fundamental rights belonging to Mohammad Rahim, as set forth in the American Declaration of the Rights and Duties of Man have been violated consistently, intentionally, and gravely by the Government of the United States of America:

- a) Mohammad Rahim's right to life, liberty and security of his person (Article I);

b) Mohammad Rahim's equality before the law and protection of his rights without distinction resulting from his race, creed, or any other factors such as nationality and religion (Article II);

c) Mohammad Rahim's right to a private life and family (Articles V and VI);

d) Mohammad Rahim's right to the preservation of his health through sanitary and social measures relating to food, clothing, housing and medical care, to the extent permitted by public and community resources (Article XI);

e) Mohammad Rahim's right to be recognized, even in Guantanamo, as a person and enjoy basic civil rights (Article XVII);

f) Mohammad Rahim's right to resort to the courts to ensure respect for his legal rights including a simple, brief procedure whereby the court will protect him from acts of authority that, to his prejudice, violate any fundamental constitutional rights (Article XVIII);

i) Mohammad Rahim's right, once being deprived of his liberty, to have the legality of his detention ascertained without delay by a court and tried without undue delay, or else to be released (Article XXV);

j) Mohammad Rahim's right to humane treatment while in custody (Article XXV);

k) Mohammad Rahim's right to be presumed innocent until proven guilty (Article XXVI);

l) Mohammad Rahim's right to be given an impartial and public hearing (Article XXVI);

m) Mohammad Rahim's right to be tried in by courts previously established in accordance with pre-existing law (Article XXVI).

5. Infringed Rights and Discussion:

I. Background

The United States has never released credible evidence that Mohammad Rahim was a combatant, a terrorist or an important member of Al-Qaeda or the Taliban. By all accounts, he was merely a local Afghan whose ancestral village was located near the mountainous areas in Nangarhar province where Al-Qaeda was operating before December 2001. The worst allegation against Mohammad Rahim is that he served as a Pashto translator, "facilitator," and guide to the Arabs who belonged to Al-Qaeda. All of the evidence against him is highly secretive, contradictory, lacking in credibility and inherently unreliable as it was coerced during detainee interrogations. It is unknown how much of it was derived from torture.

Mohammad Rahim never belonged to either Al-Qaeda or the Taliban. On the contrary, he was politically loyal to Hezb-I-Islami, whose leader, Hekmaytar, recently signed peace agreements with the government of Afghanistan and has agreed to share in the peaceful governance of the nation.

Mohammad Rahim was the son of a tribal chief in Chaparhar district, Nangarhar province, Afghanistan. Chaparhar district lies between the Tora Bora mountains, which serve as the frontier to Pakistan and contain numerous points of passage between the two countries, and the city of Jalalabad. His family fled to Pakistan as refugees from the Soviets during the 1980s. Two of his older brothers were killed by the Soviets during the occupation.

Mohammad Rahim was raised in Peshawar Afghanistan where he became a school teacher for the children of Afghan refugees in Pakistan. He taught at both primary school and middle school and the subject he taught included geography, mathematics, languages and religion. In 1984, he was reimbursed five rupees per day from the school and two rupees per day from the International Red Cross.

By 1992, Mohammad Rahim was engaged in traveling back and forth between Jalalabad and Peshawar buying and selling wheat. At some point in 1994, the United Nations and the government in Jalalabad agreed to prohibit the cultivation of poppy. This led to the placement of a U.N. drug control office in Jalalabad. Mohammad Rahim earned a position in the drug control office as a finance officer where he earned approximately 600 rupees per month.

During this time, many Arabs remained in the area outside of Jalalabad following their participation in the U.S. backed defeat of the Soviet occupation. Because of his language skills and intelligence, Mohammad Rahim provided a variety of services to the Arabs including mostly serving as a translator.

When some of the Arabs from Jalalabad moved to Tarnak Farms, the Al-Qaeda compound near Qandahar, Mohammad Rahim accompanied them and continued to serve as a translator and facilitator for the group but he is not alleged to have undergone or administered any type of training at the compound.

After 1998, Mohammad Rahim returned to Chaparhar district where he continued to serve as a translator for the Arabs in Jalalabad. In October of 1999, he moved to Peshawar after learning that his father had developed cancer. He stayed there until his father died in June of 2001. Afterwards, he moved to Kabul where he operated a taxi to earn a living. It was during this time that the attacks of September 11 occurred.

Mohammad Rahim learned of the September 11th attacks over the radio listening to the BBC. After the attacks, the United States began bombing Kabul and, later, Jalalabad. Mohammad Rahim returned to Chaparhar and where he anticipated the arrival of United States ground troops but witnessed only relentless aerial bombing. On

or about November, 2001, Arab Al-Qaeda members came to Mohammad Rahim's ancestral home and requested assistance in guiding the Arabs through the Tora Bora mountain regions. For approximately the following month, Mohammad Rahim assisted in guiding the Arabs to and through the Tora Bora. His primary motive was money and he was paid approximately 25,000 rupees as a result.

One of the Arabs who escaped through the Tora Bora was, allegedly, Osama bin Laden. As a result, the United States intelligence services began an intense effort to capture Mohammad Rahim and anyone who could provide information related to the movements of Osama bin Laden and the other Arabs from Tora Bora.

For the next seven years, Mohammad Rahim lived peacefully in Pakistan with his two wives and children. On or about June 25, 2007, he was captured while walking in an open market with his family. Within days, he was taken to an undisclosed secret detention facility where he was subject to "enhanced interrogation techniques" (EITs) inflicted by the Central Intelligence Agency (CIA) for approximately nine months in violation of U.S. and international law, specifically in violation of the 1984 United Nations Convention against Torture.⁸

Mohammad Rahim was the final detainee admitted into the CIA's Detention and Interrogation Program.⁹ At the time of his arrest, no reliable intelligence sources indicated that he was an important member of Al-Qaeda or any international terrorist organization.

In March 2002, CIA Headquarters had expanded its scope of detention operations and instructed CIA personnel that it would be appropriate to detain individuals who might not be high-value targets in their own right, but could provide information on high-value targets.¹⁰ Mohammad Rahim was never a target in his own right, but was detained for information he might have.

Accordingly, in order to torture Mohammad Rahim, the interrogators sought specific permission to do so. On July 20, 2007, the Office of Legal Counsel approved his torture. The next day, the CIA initiated the employment of six specifically approved methods of enhanced interrogation: sleep deprivation, dietary manipulation, facial grasp, facial slap, abdominal slap, and the attention grab. The torture continued for approximately nine months. The method of sleep deprivation was executed by shackling Mohammad Rahim in a standing position for extended periods of time. According to the SSCI, the longest period of sleep deprivation was 138.5 hours.¹¹

⁸ See SSCI at 145-156, describing the legal and operation challenges of inflicting torture in violation of international U.S. law; see *a/so* SSCI at 163-166, providing a summary of the methods of enhanced interrogations employed against Mr. Rahim.

⁹ See SSCI at 143.

¹⁰ See SSCI at 13, explaining the CIA's expansion of detention authority.

¹¹ See SSCI at 163-166.

The CIA's detention and interrogation of Mohammad Rahim resulted in no disseminated intelligence reports. On April 21, 2008, and April 22, 2008, the CIA conducted an internal investigation to learn why, despite months of torture, Mohammad Rahim provided no intelligence – overlooking the obvious conclusion that he did not know what he was alleged to have known.¹²

Following the United States' failed attempt to extract intelligence from Mohammad Rahim by torture, he was flown to Guantanamo Bay, Cuba where he was placed among the "high value detainees" (HVD) at Guantanamo Bay.¹³ The only reason he is kept there is to conceal the history of his torture by the CIA. His character and personality are anomalous compared to the other Camp 7 detainees and he is very much out-of-place there.¹⁴ No reliable evidence has ever indicated that Mohammad Rahim was a fighter or an important member of Al-Qaeda or the Taliban. He was merely a local Afghan whose ancestral village was located near the mountainous areas in Nangarhar province where Al-Qaeda was operating before December 2001. The worst allegation against Mohammad Rahim is that he served as a translator, "facilitator," and guide to the Arabs in Al-Qaeda. Therefore, his detention in Camp 7 serves only to hide the evidence of the failed torture interrogation methods that were employed against him.

His continued detention at Camp 7 has been secretive and indefinite. He has not been provided a meaningful basis to challenge his detention. On February 9, 2009, his detention was reviewed by a Combatant Status Review Board (CSRB) which recommended that he not be released. Nearly seven years later, on September 16, 2016, a Periodic Review Board (PRB) conducted a second secret hearing which also recommend that he not be released. In both cases, Mohammad Rahim and his assigned counsel were not permitted to know what the evidence or the allegations against him were. On the contrary, the United States government has maintained that a detainee at Guantanamo Bay has "no right to discovery."

II. The Torture of Mohammad Rahim as well as the subsequent refusal to provide medical treatment for the physical effects of torture by the United States constitutes a violation of Articles I, XI and XXV of the Declaration of the Rights and Duties of Man.

The Inter-American Commission on Human Rights recognizes an absolute prohibition of the use of torture and cruel, inhuman, or degrading treatment or punishment for any purpose and in all circumstances.¹⁵ The absolute prohibition of

¹² See SSCI at 167.

¹³ On March 14, 2008, the Department of Defense announced that it had taken Mohammad Rahim into custody from the CIA. See <http://archive.defense.gov/Releases/Release.aspx?ReleaseID=11758>

¹⁴ See SSCI at 13, 158, and 425.

¹⁵ See *generally* American Declaration of the Rights and Duties of Man; the American

torture is a peremptory norm, meaning that it is binding on all States regardless of treaty ratification status, from which no derogation is permitted.¹⁶ The Inter-American Commission has recognized the prohibition of torture to be a *jus cogens* norm.¹⁷

The American Declaration reflects this prohibition in at least three articles. Article I protects the right of “[e]very human being ... to life, liberty and the security of his person.” Article XI recognizes the right to the preservation of health and well-being. Finally, Article XXV specifically protects the right of persons in state custody to humane treatment: “[e]very individual who has been deprived of his liberty ... has the right to humane treatment during the time he is in custody.”

The deliberate and willful torture of Mohammad Rahim by the CIA through the application of “Enhanced Interrogation Techniques” in the “RDI” program for a period of nine months constitutes clear violations of Articles I, XI, and XXV. Mohammad Rahim was beaten, hanged for days at a time, deprived of sleep and starved in a fruitless attempt to gain intelligence related to the activities of people who were far above him in positions of social and organizational authority. A common torture method that was implemented during this time consisted of the interrogator crushing Mohammad Rahim’s testicles while asking questions. For the entire nine month period he was kept in a small, windowless cell where he was chained to either the wall or the ceiling and subject to deafening, ambient noise that masked the sounds of his screams even to his own ears. Except for the torturers and interrogators, his existence was entirely solitary.

Furthermore, the solitary confinement and forced isolation of Mohammad Rahim did not end with his transfer to Guantanamo Bay. Since his arrival at Guantanamo Bay, Mohammad Rahim has been kept in near seclusion within the notorious “Camp 7” at Guantanamo Bay, with fourteen other prisoners who have been characterized as “high value.” The location and conditions of his confinement as well as the rules and the identity of the authorities who control his prison remain highly classified. To date he does not know where his initial nine months of confinement and torture occurred.

Finally, as a direct result of the torture inflicted on Mohammad Rahim by the CIA, he continues to suffer from numerous medical problems for which that the United States refuses to provide treatment or to allow him to seek his own treatment.

Convention on Human Rights; the Inter-American Convention to Prevent and Punish Torture.

¹⁶ See, e.g., Restatement of Foreign Relations Law of the United States (Third), § 702; Vienna Convention on the Law of Treaties, art. 53; Sir Ian Sinclair, *The Vienna Convention on the Law of Treaties*, Manchester University Press, 1973, p. 208.

¹⁷ See IACHR, Report on the Situation of Human Rights Asylum Seekers within the Canadian Refugee Determination System, OEA/Ser.L/V/II.106, doc. 40 rev., para. 154 (Feb. 28, 2000); Case of *Lori Berenson-Mejía*, cit., at para. 100. The Court has stated that “the fact that a State is confronted with terrorism [or a situation of internal upheaval] should not lead to restrictions on the protection of the physical integrity of the person.” See also Case of *Gomez Paquiyauri*, cit., at para. 37; Case of *Cantoral Benavidez*, cit., at para. 143; Case of *Castro*, cit., at para. 271; *Caesar v. Trinidad and Tobago*, Inter-Am. Ct. H.R. (ser. C) No. 123, para. 70 (Mar. 11, 2005).

Mohammad Rahim's wrists are visibly mangled from being hanged for long periods of time and he is forced to wear protective sleeves over both wrists to ameliorate the pain.

Mohammad Rahim suffers from serious and painful nerve damage in his back from being hanged for long and repeated periods of time, some exceeding one hundred thirty four hours.

Mohammad Rahim's ankle are permanently damaged from being shackled and hanged for long and repeated periods of time and swelling to the size of elephant feet, approximately twelve inches in diameter.

Mohammad Rahim cannot eat and digest most types of food due to severe corruption of his digestive faculties as a direct result of the CIA's implementation of starvation methods, otherwise referred to as "food manipulation," during his interrogation. He also cannot sleep uninterrupted without the constant discharge of acidic bile directly resulting the periods of starvation and the corruption of his digestive system.

Mohammad Rahim lives in pain as the result of his torture and the United States government refuses to provide him medical treatment. In fact, the United States refuses to even release his own medical records to him and his assigned counsel.

The initial torture of Mohammad Rahim was conducted by professionally trained psychologists whose job was to push him to the utter limits of human tolerance in order to gain intelligence that would be valuable to the United States government. They labored under intense pressure and criticism from within their own agency concerning their failure to "break" Mohammad Rahim and the "indefensible" torture methods they employed as part of their interrogation.¹⁸ Despite their total failure to garner any meaningful intelligence from Mohammad Rahim, certain psychologists have boasted publicly about the implementation of their torture program which was conducted pursuant to an \$80,000,000 contract with the CIA.¹⁹ Furthermore, a United States federal prosecutor has, recently, in open court, further condoned and justified the torture that occurred as part of the same RDI program.²⁰ Finally, the newly inaugurated President of the United States, Donald Trump, has repeatedly expressed admiration and approval of the various torture methods implemented against Mohammad Rahim,

¹⁸ https://www.washingtonpost.com/world/national-security/cia-documents-expose-internal-agency-feud-over-psychologists-leading-interrogation-program/2017/01/18/a73bd722-dd85-11e6-918c-99ede3c8cafa_story.html?utm_term=.b4c2e3b5f065

¹⁹ Tampa Bay Times December 27, 2016, Expert Defends Torture, by Howard Altman.

²⁰ Unofficial/Unauthenticated transcript of *United States v. K.S.M et al.*, dated 8 December 2017, public release pending; see also, Quinta Jurecic, *This Week at the Military Commissions*, 12/6 Session: *Please Don't Discuss That Unclassified Document*, dated 8 December 2016, available at: <https://www.lawfareblog.com/week-military-commissions-126-session-please-dont-discuss-unclassified-document>

and others, in the RDI program. The voices condemning the United States government's torture of those it captures abroad have grown silent or muffled. Accordingly, the IACHR must grant review of this petition.

III. The forced disappearance, secret detention and continued detention without trial for ten years of Mohammad Rahim constitute violations of Articles I, XVII, XVIII, XXV and XXVI.

Mohammad Rahim was captured on June 25, 2007, while walking peacefully in an open market with his wives and children depriving him of his right to life, liberty and security of person in violation of Article I. His continued detention without trial violates both Article I and Article XXV which recognizes his right to have the legality of his detention ascertained without delay by a court and tried without undue delay, or else to be released.

In addition, the United States government's declared intention not to provide Mohammad Rahim a trial is in gross violation of Article XXVI of the Declaration which recognizes both that every person has a right to the presumption of innocence and the right to an impartial and public hearing established in accordance with pre-existing laws. The United States government has pronounced that it can capture, torture, detain and hold indefinitely a person without any intention of providing him or her a trial. The United States government did not even allow Mohammad Rahim access to counsel for the first two years of his captivity.

Nor has the provision of two "administrative review" boards over a period of ten years, provided an adequate substitute for a fair trial. The United States government has only conducted two administrative review hearings during Mohammad Rahim's captivity. The first was called a "Combatant Status Review Board." It was held on February 9, 2009, during the Bush administration. During this hearing, Mohammad Rahim had no counsel, no right to discovery, no right to know the basis for the allegations against him and no means or opportunity to provide a defense of any kind. Moreover, there is no indication that the inculpatory intelligence that was used against him at the hearing was not derived from his own torture or the torture based interrogation of others.

Nearly six years later, on September 16, of 2016, at the very end of the Obama administration. The United States government conducted a second administrative review hearing. This time the hearing was called a "Periodic Review Board." But this hearing also failed to satisfy Mohammad Rahim's right to a fair and impartial hearing since the hearing is both unfair and partial in every regard.

First, the PRB hearing is not public, but entirely secretive. The entire proceeding is classified at the highest level and the bulk of the evidence and allegations against Mohammad Rahim have not been released to him or the public. He is therefore unable to counter the allegations in any meaningful way and his attorney cannot even evaluate the quality of any allegations against him.

Even if the secret evidence was not highly classified, the PRB provides no “right to discovery” to Mohammad Rahim or his counsel. Therefore, not only are Mohammad Rahim and counsel incapable of evaluating the quality of the evidence against him, they have no ability to know what the allegations are. Nothing more than an indefensible, vague and generic summary of allegations is released providing no concrete or specific illegal activities.²¹

Moreover, the PRB further violates Article XXVI because it does not recognize the right to the presumption of innocence. The PRB will not recommend a candidate as amenable for release unless that candidate admits completely to the allegations against him. Accordingly, the PRB has sent individuals identified as “personal representatives” to Mohammad Rahim attempting to coax him to admit to being an important member of various different terrorist organizations without offering to explain how he could offer to corroborate unknown allegations when he could not do even under torture.

Securing an admission of guilt from Mohammad Rahim is imperative to the United States government actors who detained and tortured him. Not because it will help to provide for the security of the United States from any terrorist or battlefield attack, but because it will serve to justify the commission of the crimes against Mohammad Rahim carried out under mantra of national security – including indefinite, secret detention and torture. Mohammad Rahim was never accused of any specific acts of violence. He was captured and tortured because of what the United States government thought he knew about others. The continued, indefinite and secret detention of Mohammad Rahim must be condemned. Accordingly, this petition must be granted.

IV. The United States government’s failure to provide Mohammad Rahim a means to petition to any type of court or administrative body to ensure respect for his legal rights, including a simple, brief procedure whereby the court will protect him from acts of authority that, to his prejudice, violate any fundamental constitutional rights, constitutes a violation of Article XVIII

Article XVIII provides:

Every person may resort to the courts to ensure respect for his legal rights. There should likewise be available to him a simple, brief procedure whereby the courts will protect him from acts of authority that, to his prejudice, violate any fundamental constitutional rights.

The United States government offers Mohammad Rahim no access to any type of procedure whereby a court might protect him from prejudicial acts that violate his fundamental rights. Currently, the United States may impose any type of prejudicial act

²¹ Attachment C.

upon Mohammad Rahim without any accountability or means of redress for Mohammad Rahim. The acts can range in severity from denying him access to information such as denying him the right to read the SSCI “torture report” to the more severe acts of punishment such as solitary confinement and torture.

There exists an erroneous misconception that Guantanamo detainees have access to federal courts as a result of the United States Supreme Court’s extension of habeas jurisdiction to Guantanamo detainees in *Boumediene v. Bush*.²² But this right to review has been, subsequently, rendered meaningless by the rulings of the United States Court of Appeals for the District of Columbia Circuit. As a result, Guantanamo detainees currently possess no ability to seek redress for any violation of their fundamental rights.

The evisceration of Guantanamo detainee’s *habeas* rights, began on July 13, 2010, when the United States Court of Appeals for the District of Columbia reversed a *habeas* grant of relief in the case of *Al-Adahi v. Obama*.²³ This decision triggered a wave of denied petitions in *habeas* litigation in the United States District Court for the District of Columbia, the court hearing all Guantanamo habeas petitions in the first instance. Before *Al-Adahi*, detainees were more likely than not to have their *habeas* petitions granted by the district court. Since *Al-Adahi*, district courts have decided twelve petitions, eleven of which were denied. In the only case where the district court granted *habeas*, *Latif v. Obama*,²⁴ the D.C. Circuit quickly reversed and remanded the decision.²⁵

Therefore, there remains no way for Mohammad Rahim to petition a court for any violation of a fundamental right. For example, he is currently detained and suffering from the physical effects of his torture, yet the United States government refuses to provide him medical treatment to treat his mangled wrists and other torture related injuries, refuses to allow him, his counsel and his family to access his medical records and even refuses to allow him to view the portions of the SSCI “torture report” that are relevant to his own torture. Nevertheless, he has no means of addressing these fundamental violations of his rights. Should the executive administration of President

²² *Boumediene v. Bush*, 553 U.S. 723 (2008).

²³ 613 F.3d 1102 (D.C. Cir. 2010).

²⁴ 666 F.3d 746 (D.C. Cir. 2011).

²⁵ Mark Denbeaux *et al.*, No Hearing Habeas: D.C. Circuit Restricts Meaningful Review, Seton Hall University School of Law Center for Policy & Research, May 1, 2012, available at: <http://law.shu.edu/ProgramsCenters/PublicIntGovServ/policyresearch/upload/hearing-habeas.pdf>; See also Carlos Warner, NAVIGATING A “LEGAL BLACK HOLE”: THE VIEW FROM GUANTANAMO BAY. 5 Akron J. Const. L. & Poly 31 (2013-2014), available at: <http://www.akronconlawjournal.com/volumes/index.php?pid=5>

Donald Trump decide to re-institute the torture of Mohammad Rahim for intelligence purposes, he would similarly have no ability to seek a remedy from any court.

V. The United States government's disinformation and secrecy about Mohammad Rahim's alleged offenses and his subsequent torture by the United States violate Articles IV and XXVI recognizing the right of all persons to engage in the pursuit of truth.

The allegations against Mohammad Rahim by the United States government are vague, unsupported by evidence, cloaked in secrecy, self-serving and spurious. The United States government's continued attempt to inhibit the free investigation and truth surrounding Mohammad's Rahim's relationship to the Arabs living near his ancestral village, and his subsequent torture by the CIA, constitutes a violation of Articles IV and XXVI of the Declaration.

On March 14, 2008, the Department of Defense published a News Release, No 205-08, announcing that it had taken custody of a "high-level member of al-Qaida" and sent him to Guantanamo Bay, Cuba. The News Release claimed that Mohammad Rahim was "a close associate" of Osama bin Laden, that he had ties to al-Qaida organizations throughout the Middle East, and he was one of bin Laden's "most trusted facilitators and procurement specialists." The announcement did not reference the fact that he had been tortured by the CIA for the previous nine months and that, despite the torture, he failed to possess the "high-value" information the torturers expected.

Similarly, nine years later, the publication by the Periodic Review Board of their summary findings, repeat the same generic accusations against Mohammad Rahim without the same level of hyperbole.

Following his capture, Mohammad Rahim's family had no knowledge of his location or well-being for almost one year until they learned of his detention in Guantanamo Bay on March 14, 2008. Mohammad Rahim did know himself know the location detention approximately the first year of the captivity.

For several additional years he was allowed very limited contact with the outside world. He was not allowed any communication outside of his cell for any purpose until 2008 when he was allowed to meet representatives of the ICRC and permitted to communicate in writing with his family.

He has never been permitted to send or receive routine mail.

He continues to be detained in a secret, hidden facility, Camp 7, and his counsel has never been permitted to visit his cell or the site of torture based interrogations. He

is not permitted to communicate the history of his torture to the outside world and he is not even permitted to read the portions of the SSCI Report that relate to himself.²⁶

VI. The indefinite and arbitrary detention of Mohammad Rahim depriving him of his personal and private life with his family constitutes a violation of Articles V and VI.

When Mohammad Rahim was captured on June 25, 2007, he was walking in an open market in Lahore Pakistan with his two wives and seven children. At the time, he was the sole source of income and livelihood for them as well as his mother. Following his capture, his family dispersed someone but continue to live in Pakistan under the austere conditions of fatherless, Afghan refugees. Mohammad Rahim has been permitted no contact with his family outside of engagements with the Red Cross/ Red Crescent. He also left behind a mother who lived in his household and who is now approximately eighty years old and many brothers and sisters.

Mohammad Rahim is a family man devoted to the care of his mother, wives and children. His secret detention and the inability to communicate with his family by the United States constitutes a violation of Articles V and VI of the Declaration which recognize the human right to private and family life.

Section III: Legal Remedies Pursued to Resolve the Facts Alleged.

1. Describe the actions pursued by the alleged victim or petitioner before the judicial bodies. Explain any other remedy pursued before domestic authorities, including administrative agencies, if any:

The one forum potentially available to Mohammad Rahim is the Guantanamo Military Commissions. However, the chief prosecutor of the Military Commissions has signed a declaration confirming that he has no intention of ever trying Mohammad Rahim in a Military Commission. See *supra* at pages 5 and 13 and Attachment B.

Nor does Mohammad Rahim have the ability to seek redress in United States federal district court through Habeas petitions as the habeas rights of Guantanamo detainees have been thoroughly eviscerated since 2010. See *supra* at pages 14-15.

Finally, Mohammad Rahim has received only two administrative reviews of his detention in almost ten years but neither review could be considered a “legal” remedy in

²⁶ In 2016 Major Valentine attempted to deliver the portions of the SSCI report that discussed the CIA’s torture of Mohammad Rahim to him. The material was delivered as “Lawyer-Client Privileged Material.” The CIA contractors, who review all mail into the Guantanamo prison facility, rejected the SSCI report as “contraband” and refused to permit its delivery.

any sense, but where administrative and in no way intended to serve as fact finding bodies. See *supra* at pages 13-14.

2. If it has not been possible to exhaust domestic remedies, choose from the following options the one that best explains why it was not possible:

☐ the domestic laws do not ensure due process for the protection of the rights;

☒ access to domestic remedies has not been permitted, or exhausting them has been impeded;

☐ there has been unwarranted delay in issuing a final decision in the case.

Please explain the reasons:

Mohammad Rahim has no access domestic remedies because the U.S. Government deliberately does not want him to have opportunities of redress in U.S. federal courts as doing so would reveal the full extent of its humanitarian crimes including the torture based interrogation of its prisoners.

U.S. domestic law does not apply to Mohammad Rahim. Instead, a separate set of Guantanamo-specific military laws, in the form of the Military Commissions Act of 2009, have been deliberately crafted to suppress Mohammad Rahim of any judicial rights and remedies. Mohammad Rahim is prohibited from availing himself of the established competent, impartial, and independent domestic courts effectuated by Article 3 of the United States Constitution. As with the case of *Bámaca Velásquez*, the entire edifice of the U.S. legal system is defective with regards to Mohammad Rahim because the clear violations of his rights are not recognized as violations by the national judicial apparatus. There is an utter disconnect: acts that gravely contravene the Declaration cannot be currently redressed within U.S. domestic law because that is the deliberate intention of the U.S. Government.

3. Indicate whether there was a judicial investigation. Indicate when it began, when it ended, and the result. If it has not concluded, indicate why:

There has been no judicial investigation by the United States government into the capture, torture, and indefinite detention of Mohammad Rahim. On the contrary, the United States government has endeavored to conceal the history of his captivity through ordinary information security classification procedures. The United States Senate Select Committee on Intelligence has conducted an inquiry that partially examined the torture and failed interrogation of Mohammad Rahim has taken no action to further investigate and does not possess the ability to provide a judicial remedy. Nor the SSCI possess the ability to declassify its findings.

4. If applicable, indicate the date of notification of the final decision:

Not applicable.

tion V: Available Evidence:

1. Evidence:

The bulk of evidence in this case is primarily available through portions of the SSCI Report. Attachment A. The United States government is suppressing all other relevant evidence.

2. Witnesses:

Witness statements, including those of the victim relating to his own torture, will be submitted as part of the merits brief, absent interference from the member state.

Additional names and identities of individuals who have witnessed Mohammad Rahim's torture have thus far been withheld from Petitioner. However, certain former CIA contractors have published books boasting about the effectiveness of their implementation of torture based interrogation methods against *other* persons admitted to the RDI program.

Section V: Other Complaints Lodged:

Indicate whether these facts have been presented to the Human Rights Committee of the United Nations or any other international organization:

These facts have not been submitted to the United Nations Working Group on Arbitrary Detention or the United Nations Working Group Against Torture as neither group can make a decision on the particular violations of the Declaration that are the subject of this petition before the IACHR.

Section VI: Precautionary Measures

Indicate whether there is a serious and urgent situation of risk of irreparable harm to persons or to the subject matter of the proceedings:

Yes. Mohammad Rahim requests that the Commission undertake precautionary measures on his behalf based on Article 25 of the Rules of Procedure. Mohammad

Rahim's present situation is "serious" because the ongoing acts and omissions of the U.S. Government violating his due process rights continue to have a "grave impact" on the continued detention and of Mohammad Rahim.[Art. 25(2)(a)] This is an especially heightened matter of concern given the stated intentions of the newly inaugurated President of the United States to re-introduce torture based interrogation methods against detainees.

Mohammad Rahim's present situation also involves "irreparable harm" to his physical and mental well-being that "due to their nature would not be susceptible to reparation, restoration, or adequate compensation." [Art. 25(2)(c)]

To this end, Mohammad Rahim is asking the IACHR to strongly convey the following precautionary measures to the U.S. Government:

- a) that Mohammad Rahim immediately be allowed comprehensive and remedial medical treatment for the injuries sustained during his torture by doctors independent of the U.S. Government, including specifically treatment to his wrists, back, and legs resulting from the effect of prolonged hanging and treatment to his esophagus and digestive system resulting from "dietary manipulation" and treatment to his other exterior organs resulting from forced beatings and compressions;
- b) that the United States government immediately release all medical records related to his past treatment and his current physical condition to his assigned counsel and to his family;
- c) that Mohammad Rahim immediately be allowed to contact both his family and consular representatives of Afghanistan;
- d) that Mohammad Rahim's conditions of confinement be reviewed immediately by independent observers and brought into conformity with Common Article 3 of the Geneva Conventions;
- e) that Mohammad Rahim be permitted to communicate freely about matters related to his own capture and torture;
- f) that Mohammad Rahim be tried in accordance with the Rule of Law or immediately freed from secret detention following almost ten years of confinement.

Section VII. Request for Relief on the Merits

In addition to precautionary measures, Mohammad Rahim is petitioning the IACHR to undertake admissibility and merits examination simultaneously as it is permitted to do "in serious and urgent cases, or when it is believed that the life or

personal integrity of a person is in real and imminent danger.” Mohammad specifically asks the Commission:

- a) to affirm that the indefinite and incommunicado detention of human beings at Guantanamo without trial for the sake of suppressing evidence of government sponsored torture is illegal and illegitimate under international law;
- b) to advise the United States Government to either release Mohammad Rahim or try him in a pre-established, regularly constituted judicial forum offering the judicial protections of the United States Constitution, the Declaration, and international human rights law;
- c) to observe that Mohammad has the right to seek an investigation of his forced disappearance, incommunicado detention and torture by the United States Government from 2007-2008, and to seek reparations from the United States Government in conformity with internationally established practice; and,
- d) to inform the United States Government that it Mohammad Rahim’s continued conditions of confinement including the suppression of evidence related to his torture, are unacceptable and incompatible with its obligations under the Declaration, international humanitarian law, and international human rights law.

Attachments

- A: United States Senate Select Committee on Intelligence, "Committee Study of the Central Intelligence Agency's Detention and Interrogation Program," (SSCI "Torture Report"); pages 13, 143, 157-58 and 163.
- B: Memorandum For The Periodic Review Board dated 23 May 2016, signed by Brigadier General Mark Martins, USA, Chief Prosecutor, Military Commissions.
- C: Periodic Review Board Memorandum dated September 19, 2016, reiterating the accusations against Mohammad Rahim that led to his torture based interrogation.

ATTACHMENT A

CIA would “contract out all other requirements to other US Government organizations, commercial companies, and, as appropriate, foreign governments.”¹⁹

(TS// [REDACTED] //NF) On October 8, 2001, DCI George Tenet delegated the management and oversight of the capture and detention authorities provided by the MON to the CIA’s deputy director for operations (DDO), James Pavitt, and the CIA’s chief of the Counterterrorism Center, Cofer Black.²⁰ The DCI also directed that all requests and approvals for capture and detention be documented in writing. On December 17, 2001, however, the DDO rescinded these requirements and issued via a CIA cable “blanket approval” for CIA officers in [REDACTED] to “determine [who poses] the requisite ‘continuing serious threat of violence or death to US persons and interests or who are planning terrorist activities.’”²¹ By March 2002, CIA Headquarters had expanded the authority beyond the language of the MON and instructed CIA personnel that it would be appropriate to detain individuals who might not be high-value targets in their own right, but could provide information on high-value targets.²²

(TS// [REDACTED] //NF) On April 7, 2003, [REDACTED] CTC Legal, [REDACTED], sent a cable to CIA Stations and Bases stating that “at this stage in the war [we] believe there is sufficient opportunity in advance to document the key aspects of many, if not most, of our capture and detain operations.”²³ [REDACTED]’s cable also provided guidance as to who could be detained under the MON, stating:

“there must be an articulable basis on which to conclude that the actions of a specific person whom we propose to capture and/or detain pose a ‘continuing serious threat’ of violence or death to U.S. persons or interests or that the person is planning a terrorist activity.

...We are not permitted to detain someone merely upon a suspicion that he or she has valuable information about terrorists or planned acts of terrorism.... Similarly, the mere membership in a particular group, or the mere existence of a particular familial tie, does not necessarily connote that the threshold of ‘continuing, serious threat’ has been satisfied.”²⁴

¹⁹ Memorandum for DCI from J. Cofer Black, Director of Counterterrorism, via Deputy Director of Central Intelligence, General Counsel, Executive Director, Deputy Director for Operations and Associate Director of Central Intelligence/Military Support, entitled, “Approval to Establish a Detention Facility for Terrorists.”

²⁰ Memorandum from George Tenet, Director of Central Intelligence, to Deputy Director for Operations, October 8, 2001, Subject: (U) Delegations of Authorities.

²¹ DIRECTOR [REDACTED] (171410Z DEC 01)

²² WASHINGTON [REDACTED] (272040Z MAR 02)

²³ DIRECTOR [REDACTED] (072216Z APR 03)

²⁴ DIRECTOR [REDACTED] (072216Z APR 03). In a later meeting with Committee staff, [REDACTED] CTC Legal, [REDACTED] stated that the prospect that the CIA “could hold [detainees] forever” was “terrifying,” adding, “[n]o one wants to be in a position of being called back from retirement in however many years to go figure out what do you do with so and so who still poses a threat.” See November 13, 2001, Transcript of Staff Briefing on Covert Action Legal Issues (DTS #2002-0629).

L. The Pace of CIA Operations Slows; Chief of Base Concerned About “Inexperienced, Marginal, Underperforming” CIA Personnel; Inspector General Describes Lack of Debriefers As “Ongoing Problem”

(TS// [REDACTED] //NF) In the fall of 2004, CIA officers began considering “end games,” or the final disposition of detainees in CIA custody. A draft CIA presentation for National Security Council principals dated August 19, 2004, identified the drawbacks of ongoing indefinite detention by the CIA, including: the need for regular relocation of detainees, the “tiny pool of potential host countries” available “due to high risks,” the fact that “prolonged detention without legal process increases likelihood of HVD health, psychological problems [and] curtails intel flow,” criticism of the U.S. government if legal process were delayed or denied, and the likelihood that the delay would “complicate, and possibly reduce the prospects of successful prosecutions of these detainees.”⁸⁶⁷ CIA draft talking points produced a month later state that transfer to Department of Defense or Department of Justice custody was the “preferred endgame for 13 detainees currently in [CIA] control, none of whom we believe should ever leave USG custody.”⁸⁶⁸

(TS// [REDACTED] //NF) By the end of 2004, the overwhelming majority of CIA detainees—113 of the 119 identified in the Committee Study—had already entered CIA custody. Most of the detainees remaining in custody were no longer undergoing active interrogations; rather, they were infrequently questioned and awaiting a final disposition. The CIA took custody of only six new detainees between 2005 and January 2009: four detainees in 2005, one in 2006, and one—the CIA’s final detainee, Muhammad Rahim—in 2007.⁸⁶⁹

(TS// [REDACTED] //NF) In 2004, CIA detainees were being held in three countries: at DETENTION SITE BLACK in Country [REDACTED], at the [REDACTED] facility [REDACTED] in Country [REDACTED], as well as at detention facilities in Country [REDACTED]. DETENTION SITE VIOLET in Country [REDACTED] opened in early 2005.⁸⁷⁰ On April 15, 2005, the chief of Base at DETENTION SITE BLACK in Country [REDACTED] sent the management of RDG an email expressing his concerns about the detention site and the program in general. He commented that “we have seen clear indications that various Headquarters elements are experiencing mission fatigue vis-à-vis their interaction with the program,” resulting in a “decline in the overall quality and level of experience of deployed personnel,” and a decline in “level and quality of requirements.” He wrote that because of the length of time most of the CIA detainees had been in detention, “[the] detainees have been all but drained of actionable intelligence,” and their remaining value was in providing “information that can be incorporated into strategic, analytical think pieces that deal with motivation, structure and goals.” The chief of Base observed that, during the course of the year, the detention site transitioned from an intelligence production facility to a long-term detention facility, which raised “a host of new challenges.” These challenges included the need to address

⁸⁶⁷ CIA PowerPoint Presentation, CIA Detainees: Endgame Options and Plans, dated August 19, 2004.

⁸⁶⁸ September 17, 2004, DRAFT Talking Points for the ADCI: Endgame Options and Plans for CIA Detainees.

⁸⁶⁹ The CIA took custody of Abu Faraj al-Libi, Abu Munthir al-Magrebi, Ibrahim Jan, and Abu Ja’far al-Iraqi in 2005, and Abd al-Hadi al-Iraqi in 2006.

⁸⁷⁰ The first detainees arrived in Country [REDACTED] in [REDACTED] 2003. CIA detainees were held within an existing Country [REDACTED] facility in Country [REDACTED] from [REDACTED] to [REDACTED] 2003, and then again beginning in [REDACTED] 2004. For additional information, see Volume I.

which may release them, or [the CIA itself may need to] outright release them.”⁹⁵⁶

(TS// [REDACTED] //NF) After Secretary Rumsfeld declined to reconsider his decision not to allow the transfer of CIA detainees to U.S. military custody at Guantanamo Bay, CIA officers proposed elevating the issue to the president. CIA officers prepared talking points for Director Goss to meet with the president on the “Way Forward” on the program on January 12, 2006.⁹⁵⁷ The talking points recommended that the CIA director “stress that absent a decision on the long-term issue (so called ‘endgame’) we are stymied and the program could collapse of its own weight.”⁹⁵⁸ There are no records to indicate whether Director Goss made this presentation to the president.

(TS// [REDACTED] //NF) In 2005 and 2006, the CIA transferred detainees from its custody to at least nine countries, including [REDACTED], as well as to the U.S. military in Iraq. Many of these detainees were subsequently released.⁹⁵⁹ By May 2006, the CIA had 11 detainees whom it had identified as candidates for prosecution by a U.S. military commission. The remaining detainees were described as having “repatriation options open.”⁹⁶⁰

6. *The CIA Considers Changes to the CIA Detention and Interrogation Program Following the Detainee Treatment Act, Hamdan v. Rumsfeld*

(TS// [REDACTED] //NF) Following the passage of the Detainee Treatment Act in December 2005, the CIA conducted numerous discussions with the National Security Council principals about modifications to the program that would be acceptable from a policy and legal standpoint. In February 2006, talking points prepared for CIA Director Goss noted that National Security Advisor Stephen Hadley:

“asked to be informed of the criteria CIA will use before accepting a detainee into its CIA Counterterrorist Rendition, Detention, and Interrogation Program, stating that he believed CIA had in the past accepted detainees it should not have.”⁹⁶¹

(TS// [REDACTED] //NF) The CIA director proposed future criteria that would require not only that CIA detainees meet the standard in the MON, but that they possess information about threats to the citizens of the United States or other nations, and that detention in a CIA facility

⁹⁵⁶ DCIA Talking Points for 6 January 2006 Breakfast with Secretary of Defense, re: SecDef Refusal to Take CIA Detainees on GTMO.

⁹⁵⁷ DCIA Talking Points for 12 January 2006 Meeting with the President, re: Way Forward on Counterterrorist Rendition, Detention and Interrogation Program.

⁹⁵⁸ DCIA Talking Points for 12 January 2006 Meeting with the President, re: Way Forward on Counterterrorist Rendition, Detention and Interrogation Program.

⁹⁵⁹ See Volume I for additional details.

⁹⁶⁰ May 18, 2006, Deputies Committee (Un-DC) Meeting, Preliminary Detainee End Game Options. For additional information, see Volume I.

⁹⁶¹ DCIA Talking Points for 9 February 2006 Un-DC, re: Future of the CIA Counterterrorist Rendition, Detention, and Interrogation Program – Detainees.

was appropriate for intelligence exploitation.⁹⁶² A few months later, [REDACTED] CTC Legal, [REDACTED], wrote to Acting Assistant Attorney General Steven Bradbury suggesting a modified standard for applying the CIA's enhanced interrogation techniques. The suggested new standard was that "the specific detainee is believed to possess critical intelligence of high value to the United States." While the proposed modification included the requirement that a detainee have "critical intelligence of high value," it represented an expansion of CIA authorities, insofar as it covered the detention and interrogation of an individual with information that "would assist in locating the most senior leadership of al-Qa'ida of [sic] an associated terrorist organization," even if that detainee was not assessed to have knowledge of, or be directly involved in, imminent terrorist threats.⁹⁶³

(TS// [REDACTED] //NF) Discussions with the National Security Council principals also resulted in a March 2006 CIA proposal for an interrogation program involving only seven of the CIA's enhanced interrogation techniques: sleep deprivation, nudity, dietary manipulation, facial grasp, facial slap, abdominal slap, and the attention grab.⁹⁶⁴ This proposal was not acted upon at the time. The proposal for sleep deprivation of up to 180 hours, however, raised concerns among the National Security Council principals.⁹⁶⁵

(TS// [REDACTED] //NF) In April 2006, the CIA briefed the president on the "current status" of the CIA's Detention and Interrogation Program. According to an internal CIA review, this was the first time the CIA had briefed the president on the CIA's enhanced interrogation techniques.⁹⁶⁶ As previously noted, the president expressed concern at the April 2006 briefing about the "image of a detainee, chained to the ceiling, clothed in a diaper, and forced to go to the bathroom on himself."⁹⁶⁷

(TS// [REDACTED] //NF) On June 29, 2006, the Supreme Court issued its decision in the case of *Hamdan v. Rumsfeld*, concluding that the military commission convened to try Salim

⁹⁶² DCIA Talking Points for 9 February 2006 Un-DC, re: Future of the CIA Counterterrorist Rendition, Detention, and Interrogation Program – Detainees.

⁹⁶³ Letter from [REDACTED] CTC Legal [REDACTED] to Acting Assistant Attorney General Bradbury, May 23, 2006. (DTS #2009-1809); Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, May 10, 2005, Re: Application of 18 U.S.C. Sections 2340-2340A to Certain Techniques That May be Used in the Interrogation of a High Value al Qaeda Detainee (DTS #2009-1810, Tab 9), citing Fax for Daniel Levin, Acting Assistant Attorney General, Office of Legal Counsel, from [REDACTED], Assistant General Counsel, CIA (Jan. 4, 2005) ('January 4 [REDACTED] Fax'); Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, May 10, 2005, Re: Application of 18 U.S.C. Sections 2340-2340A to the Combined Use of Certain Techniques in the Interrogation of High Value al Qaeda Detainees (DTS #2009-1810, Tab 10); Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, May 30, 2005, Re: Application of United States Obligations Under Article 16 of the Convention Against Torture to Certain Techniques that May be Used in the Interrogation of High Value Al Qaeda Detainees (DTS #2009-1810, Tab 11).

⁹⁶⁴ DCIA Talking Points for 9 March 2006 Principals Committee Meeting.

⁹⁶⁵ Memorandum for the Record from [REDACTED], C/CTC [REDACTED], re: 9 March 2006 Principals Committee Meeting on Detainees.

⁹⁶⁶ See CIA document entitled, "DCIA Meeting with the President," dated April 8, 2006.

⁹⁶⁷ Email from: Grayson SWIGERT; to: [REDACTED]; cc: [REDACTED]; subject: Dr. [SWIGERT's] 7 June meeting with DCI; date: June 7, 2006.

(TS// [REDACTED] //NF) In June 2007, in an effort to gain Secretary Rice's support, the CIA asked CIA contractors SWIGERT and DUNBAR to brief Secretary Rice on the CIA's interrogation program. During that briefing, Secretary Rice expressed her concern about the use of nudity and a detainee being shackled in the standing position for the purpose of sleep deprivation. According to CIA records, in early July 2007, after the capture of Muhammad Rahim, Secretary Rice indicated that she would not concur with an interrogation program that included nudity, but that she would not continue to object to the CIA's proposed interrogation program if it was reduced to six of the enhanced interrogation techniques listed in the draft OLC memorandum: (1) sleep deprivation, (2) dietary manipulation, (3) facial grasp, (4) facial slap, (5) abdominal slap, and (6) the attention grab.⁹⁹⁴

5. *Muhammad Rahim, the CIA's Last Detainee, is Subjected to Extensive Use of the CIA's Enhanced Interrogation Techniques, Provides No Intelligence*

(TS// [REDACTED] //NF) On June 25, 2007, al-Qa'ida facilitator Muhammad Rahim was captured in Pakistan.⁹⁹⁵ Based on reports of debriefings of Rahim in foreign government custody and other intelligence, CIA personnel assessed that Rahim likely possessed information related to the location of Usama bin Laden and other al-Qa'ida leaders.⁹⁹⁶ On July 3, 2007, Acting CIA General Counsel John Rizzo informed Acting Assistant Attorney General Steven Bradbury that the CIA was anticipating a "new guest," and that the CIA "would need the signed DOJ opinion 'in a matter of days.'"⁹⁹⁷

(TS// [REDACTED] //NF) Muhammad Rahim was rendered to CIA custody at DETENTION SITE BROWN in Country [REDACTED] on [REDACTED] July [REDACTED], 2007.⁹⁹⁸ Upon his arrival, CIA interrogators had a single discussion with Rahim during which he declined to provide answers to questions about threats to the United States and the locations of top al-Qa'ida leaders.⁹⁹⁹ Based on this interaction, CIA interrogators reported that Rahim was unlikely to be cooperative. As a

and agree the CIA is off the track and rails... that we should not be doing detention, rendition, interrogation." Referring to a CIA leadership meeting that day in which the Committee's April 12, 2007, hearing would be discussed, [REDACTED] stated that: "I want to take that [criticism] on by letting all know how important [sic] this [hearing] is... and what the leaderships [sic] position is from hayden, kappes and jose... in case there is some corrosive, bullshit mumbling and rumblings among comopennt [sic - "component"] chiefs, some of which i am seeing." Sametime communication between [REDACTED] and [REDACTED], 12/Apr/07, 09:50:54 to 09:56:57.

⁹⁹⁴ Email from: [REDACTED]; to: Jose Rodriguez, John Rizzo etc.; subject: EIT briefing for SecState on June 22, 2007; date: June 22, 2007; July 3, 2007, Steven Bradbury, Handwritten Notes, "John Rizzo"; email from: John A. Rizzo; to: [REDACTED]; cc: [REDACTED], [REDACTED]; subject: Conversation with Bradbury; date: July 3, 2007.

⁹⁹⁵ [REDACTED] 1199 (251634Z JUN 07); [REDACTED] 6439 [REDACTED]; [REDACTED] 7516 [REDACTED]

⁹⁹⁶ CIA memorandum titled, CTC/RDG Planning for Possible Rendition of Mohammed Rahim - 19 June 2007. The document was unsigned, and the author is unknown. A subsequent version, with identical text, was titled CTC/RDG Planning for Possible Rendition of Mohammad Rahim - 25 June 2007. See also [REDACTED] 2463 (201956Z JUL 07).

⁹⁹⁷ Email from: John A. Rizzo; to: [REDACTED]; cc: [REDACTED], [REDACTED]; subject: Conversation with Bradbury; date: July 3, 2007.

⁹⁹⁸ [REDACTED] 6439 [REDACTED]; [REDACTED] 7516 [REDACTED]

⁹⁹⁹ [REDACTED] 2432 [REDACTED] JUL 07)

result, CIA Director Michael Hayden sent a letter to the president formally requesting that the president issue the Executive Order interpreting the Geneva Conventions in a manner to allow the CIA to interrogate Rahim using the CIA's enhanced interrogation techniques. A classified legal opinion from OLC concluding that the use of the CIA's six enhanced interrogation techniques proposed for use on Rahim (sleep deprivation, dietary manipulation, facial grasp, facial slap, abdominal slap, and the attention grab) did not violate applicable laws was issued on July 20, 2007. The accompanying unclassified Executive Order was issued the same day.¹⁰⁰⁰ Although Rahim had been described by the CIA as "one of a handful of al-Qa'ida facilitators working directly for Bin Ladin and Zawahiri,"¹⁰⁰¹ Rahim remained in a CIA cell without being questioned for a week, while CIA interrogators waited for approval to use the CIA's enhanced interrogation techniques against him.¹⁰⁰²

(TS////NF) CIA interrogators initially expressed optimism about their ability to acquire information from Rahim using the CIA's enhanced interrogation techniques. A cable sent from the CIA detention site stated:

"Senior interrogators on site, with experience in almost every HVD [high-value detainee] interrogation conducted by [CIA], believe the employment of interrogation with measures would likely provide the impetus to shock [Rahim] from his current resistance posture and provide an opportunity to influence his behavior to begin truthful participation."¹⁰⁰³

(TS////NF) Four CIA interrogators present at the CIA detention site began applying the CIA's enhanced interrogation techniques on July 21, 2007.¹⁰⁰⁴ According to CIA records, the interrogators "employed interrogation measures of facial slap, abdominal slap, and facial hold, and explained to [Rahim] that his assumptions of how he would be treated were wrong."¹⁰⁰⁵ The interrogators emphasized to Rahim that "his situation was the result of his deception, he would stay in this position until interrogators chose to remove him from it, and he could always correct a previous misstatement."¹⁰⁰⁶ According to the cable describing the interrogation, Rahim then threatened to fabricate information:

"[Rahim] reiterated several times during the session that he would make up information if interrogators pressured him, and that he was at the complete

¹⁰⁰⁰ July 16, 2007, letter from Michael Hayden, Director of the Central Intelligence Agency, to President George W. Bush; Executive Order 13440, July 20, 2007; and Memorandum for John A. Rizzo, Acting General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Acting Attorney General, Office of Legal Counsel, July 20, 2007, Re: Application of the War Crimes Act, the Detainee Treatment Act, and Common Article 3 of the Geneva Conventions to Certain Techniques that May Be Used by the CIA in the Interrogation of High Value al Qaeda Detainees.

¹⁰⁰¹ CIA memorandum titled, "CTC/RDG Planning for Possible Rendition of Mohammed Rahim – 19 June 2007." The document was unsigned, and the author is unknown. A subsequent version, with identical text, was titled "CTC/RDG Planning for Possible Rendition of Mohammad Rahim – 25 June 2007."

¹⁰⁰² 2445 (181104Z JUL 07); 2463 (201956Z JUL 07); 2467 (211341Z JUL 07)
¹⁰⁰³ 2463 (201956Z JUL 07)
¹⁰⁰⁴ 2467 (211341Z JUL 07)
¹⁰⁰⁵ 2467 (211341Z JUL 07)
¹⁰⁰⁶ 2467 (211341Z JUL 07)

mercy of the interrogators and they could even kill him if they wanted. Interrogators emphasized to [Rahim] that they would not allow him to die because then he could not give them information, but that he would, eventually, tell interrogators the truth.”¹⁰⁰⁷

(TS// [REDACTED] //NF) During the interrogation of Rahim using the CIA’s enhanced interrogation techniques, Rahim was subjected to eight extensive sleep deprivation sessions,¹⁰⁰⁸ as well as to the attention grasp, facial holds, abdominal slaps, and the facial slap.¹⁰⁰⁹ During sleep deprivation sessions, Rahim was usually shackled in a standing position, wearing a diaper and a pair of shorts.¹⁰¹⁰ Rahim’s diet was almost entirely limited to water and liquid Ensure meals.¹⁰¹¹ CIA interrogators would provide Rahim with a cloth to further cover himself as an incentive to cooperate. For example, a July 27, 2007, cable from the CIA detention site states that when Rahim showed a willingness to engage in questioning about “historical information,” he was “provided a large towel to cover his torso” as a “subtle reward.”¹⁰¹² CIA interrogators asked Rahim a variety of questions during these interrogations, seeking information about the current location of senior al-Qa’ida leaders, which he did not provide.¹⁰¹³

¹⁰⁰⁷ [REDACTED] 2467 (211341Z JUL 07)

¹⁰⁰⁸ Rahim was subjected to 104.5 hours of sleep deprivation from July 21, 2007, to July 25, 2007. Sleep deprivation was stopped when Rahim “described visual and auditory hallucinations.” After Rahim was allowed to sleep for eight hours and the psychologist concluded that Rahim had been faking his symptoms, Rahim was subjected to another 62 hours of sleep deprivation. A third, 13 hour session, was halted due to a limit of 180 hours of sleep deprivation during a 30 day period. (See [REDACTED] 2486 (251450Z JUL 07); [REDACTED] 2491 (261237Z JUL 07); [REDACTED] 2496 (261834Z JUL 07); [REDACTED] 2501 (271624Z JUL 07); [REDACTED] 2502 (281557Z JUL 07); and [REDACTED] 2508 (291820Z JUL 07).) On August 20, 2007, Rahim was subjected to a fourth sleep deprivation session. After a session that lasted 104 hours, CIA Headquarters consulted with the Department of Justice and determined that “[t]ermination at this point is required to be consistent with the DCIA Guidelines, which limit sleep deprivation to an aggregate of 180 hours in any repeat any 30 day period.” (See HEADQUARTERS [REDACTED] (240022Z AUG 07).) Between August 28, 2007, and September 2, 2007, Rahim was subjected to three additional sleep deprivation sessions of 32.5 hours, 12 hours, and 12 hours. (See [REDACTED] 2645 (291552Z AUG 07); [REDACTED] 2661 (311810Z AUG 07); [REDACTED] 2662 (010738Z SEP 07); and [REDACTED] 2666 (020722Z SEP 07).) As described, CIA interrogators conducted an eighth sleep deprivation session, lasting 138.5 hours, in November 2007.

¹⁰⁰⁹ [REDACTED] 2467 (211341Z JUL 07); [REDACTED] 2502 (281557Z JUL 07); [REDACTED] 2554 (071453Z AUG 07); [REDACTED] 2558 (081511Z AUG 07); [REDACTED] 2654 (301659Z AUG 07); [REDACTED] 2671 (061450Z SEP 07)

¹⁰¹⁰ [REDACTED] 2496 (261834Z JUL 07); [REDACTED] 2508 (291820Z JUL 07); [REDACTED] 2554 (071453Z AUG 07); [REDACTED] 2558 (081511Z AUG 07); [REDACTED] 2626 (241158Z AUG 07); [REDACTED] 2644 (281606Z AUG 07); [REDACTED] 2645 (291552Z AUG 07); [REDACTED] 2661 (311810Z AUG 07); [REDACTED] 2662 (020738Z SEP 07); [REDACTED] 2666 (030722Z SEP 07)

¹⁰¹¹ [REDACTED] 2467 (211341Z JUL 07); [REDACTED] 2570 (101155Z AUG 07); [REDACTED] 2615 (201528Z AUG 07)

¹⁰¹² [REDACTED] 2501 (271624Z JUL 07)

¹⁰¹³ [REDACTED] 2467 (211341Z JUL 07); [REDACTED] 2476 (231419Z JUL 07); [REDACTED] 2496 (261834Z JUL 07); [REDACTED] 2502 (281557Z JUL 07); [REDACTED] 2508 (291820Z JUL 07); [REDACTED] 2554 (071453Z AUG 07); [REDACTED] 2558 (081511Z AUG 07); [REDACTED] 2570 (101155Z AUG 07); [REDACTED] 2626 (241158Z AUG 07); [REDACTED] 2644 (281606Z AUG 07); [REDACTED] 2645 (291552Z AUG 07); [REDACTED] 2654 (301659Z AUG 07); [REDACTED] 2661 (311810Z AUG 07); [REDACTED] 2662 (020738Z SEP 07); [REDACTED] 2666 (030722Z SEP 07); [REDACTED] 2671 (061450Z SEP 07). CIA contractor DUNBAR participated in Muhammad Rahim’s interrogation sessions from August 9, 2007, to August 29, 2007. See Volume III for additional details.

(TS// [REDACTED] //NF) On September 8, 2007, CIA Director Hayden approved an extension of Muhammad Rahim's CIA detention.¹⁰¹⁴ The Director of the National Clandestine Service Jose Rodriguez disagreed with the approved extension, writing:

"I did not sign because I do not concur with extending Rahim's detention for another 60 days. I do not believe the tools in our tool box will allow us to overcome Rahim's resistance techniques. J.A.R."¹⁰¹⁵

(TS// [REDACTED] //NF) Shortly after the September 2007 extension, CIA personnel were directed to stop the use of the CIA's enhanced interrogation techniques on Rahim. Rahim was then left in his cell with minimal contact with CIA personnel for approximately six weeks.¹⁰¹⁶ On September 10, 2007, Rahim's interrogators reported to CIA Headquarters that Rahim had "demonstrated that the physical corrective measures available to HVDIs¹⁰¹⁷ have become predictable and bearable."¹⁰¹⁸ The use of the CIA's enhanced interrogation techniques on Rahim resumed on November 2, 2007, with a sleep deprivation session that lasted until November 8, 2007, for a total of 138.5 hours. This sleep deprivation session, the longest to which Rahim had been subjected, was his eighth and final session. Rahim was also subjected to dietary manipulation during this period.¹⁰¹⁹

(TS// [REDACTED] //NF) According to CIA records, intermittent questioning of Rahim continued until December 9, 2007, when all questioning of Rahim ceased for nearly three weeks. During this time, CIA detention site personnel discussed and proposed new ways to encourage Rahim's cooperation. These new proposals included suggestions that Rahim could be told that audiotapes of his interrogations might be passed to his family, or that [REDACTED]

¹⁰¹⁴ CIA memorandum from [REDACTED], Director, Counterterrorism Center, to Director, Central Intelligence Agency, September 7, 2007, Subject: Request to Extend Detention of Muhammad Rahim.

¹⁰¹⁵ CIA Routing and Record Sheet with Signatures for approval of the Memorandum, "Request to Extend Detention of Muhammad Rahim," September 5, 2007. J.A.R. are the initials of the Director of the NCS, Jose A. Rodriguez.

¹⁰¹⁶ [REDACTED] 2697 (121226Z SEP 07); CIA memorandum from [REDACTED], Director, Counterterrorism Center, to Director, Central Intelligence Agency, October 31, 2007, Subject: Request Approval for the use of Enhanced Interrogation Techniques; HEADQUARTERS [REDACTED] (101710 SEP 07). During this period, contractor Grayson SWIGERT recommended two approaches. The first was increasing Rahim's amenities over 8-14 days "before returning to the use of EITs." The second was "switching from an interrogation approach that in effect amounts to a 'battle of wills,' to a 'recruiting' approach that sidesteps the adversarial contest inherent in framing the session as an interrogation." SWIGERT noted, however, that the latter approach "is apt to be slow in producing information" since intelligence requirements would not be immediately serviced, and "it would work best if [Rahim] believes he will be in [CIA] custody indefinitely." (See email from: Grayson SWIGERT; to: [REDACTED] and [REDACTED]; cc: [REDACTED] and Hammond DUNBAR; subject: Some thoughts on [Rahim] interrogation next steps; date: September 17, 2007, at 4:05 PM.) The CTC's deputy chief of operations replied that, "It's clear that the 'harsh' approach isn't going to work and the more we try variants on it, the more it allows [Rahim] to believe he has won. The question is whether that perception will be conveyed in Scenario 2." See email from [REDACTED] to: [REDACTED]; cc: [REDACTED], [REDACTED], Grayson SWIGERT, Hammond DUNBAR, [REDACTED], [REDACTED], [REDACTED]; subject: Fw: Some thoughts on [Rahim] interrogation next steps; date: September 17, 2007, at 4:28 PM.

¹⁰¹⁷ High Value Detainee Interrogators (HVDI)

¹⁰¹⁸ [REDACTED] 2691 (101306Z SEP 07)

¹⁰¹⁹ [REDACTED] 2888 (022355Z NOV 07); [REDACTED] 2915 (081755Z NOV 07). Due to the time zone difference, when this sleep deprivation session began it was November 2, 2007, at CIA Headquarters, but November 3, 2007, at the detention site.

[REDACTED] Rahim was cooperating with U.S. forces. On December 18, 2007, CIA Headquarters directed the detention site to stand down on the proposals.¹⁰²⁰

(TS// [REDACTED] //NF) The CIA's detention and interrogation of Mohammad Rahim resulted in no disseminated intelligence reports.¹⁰²¹ On March [REDACTED], 2008, Muhammad Rahim was [REDACTED] by the CIA to [REDACTED], where [REDACTED] took custody of Rahim. The [REDACTED] government immediately transferred Rahim to the custody of [REDACTED], at which point Rahim was transferred back to CIA custody and rendered by the CIA to U.S. military custody at Guantanamo Bay.¹⁰²²

6. *CIA After-Action Review of Rahim Interrogation Calls for Study of Effectiveness of Interrogation Techniques and Recommends Greater Use of Rapport-Building Techniques in Future CIA Interrogations*

(TS// [REDACTED] //NF) On April 21, 2008, and April 22, 2008, the CIA's RDG convened an after-action review of the CIA's interrogation of Muhammad Rahim. According to summary documents, the CIA review panel attempted to determine why the CIA had been unsuccessful in acquiring useful information from Rahim. The summary documents emphasized that the primary factors that contributed to Rahim's unresponsiveness were the interrogation team's lack of knowledge of Rahim, the decision to use the CIA's enhanced interrogation techniques immediately after the short "neutral probe" and subsequent isolation period, the lack of clarity about whether the non-coercive techniques described in the Army Field Manual were permitted, the team's inability to confront Rahim with incriminating evidence, and the use of multiple improvised interrogation approaches despite the lack of any indication that these approaches might be effective.¹⁰²³ The summary documents recommended that future CIA interrogations should incorporate rapport-building techniques, social interaction, loss of predictability, and deception to a greater extent.¹⁰²⁴ The documents also recommended that the CIA conduct a

¹⁰²⁰ [REDACTED] 3097 (141321Z DEC 07); [REDACTED] 3098 (151203Z DEC 07); [REDACTED] 3144 (270440Z DEC 07); [REDACTED] 3151 (291607Z DEC 07); [REDACTED] 3158 [REDACTED]; [REDACTED] 3165 (311016Z DEC 07); [REDACTED] 3166 (011404Z JAN 08); HEADQUARTERS [REDACTED] (180120Z DEC 07)

¹⁰²¹ See Volume II and Volume III for additional information.

¹⁰²² [REDACTED] 3445 [REDACTED]; [REDACTED] 9754 [REDACTED]; [REDACTED] 8405 [REDACTED]; [REDACTED] 8408 [REDACTED]. Records indicate that Rahim did not depart [REDACTED] during his time in nominal [REDACTED] custody. See Volume III for additional details on this transfer.

¹⁰²³ Undated CIA Memorandum, titled [REDACTED] After-Action Review, author (REDACTED); Undated CIA Memorandum, titled [Rahim] After Action Review: HVDI Assessment, with attached addendum, [Rahim] Lessons Learned Review Panel Recommendations Concerning the Modification of Sleep Deprivation and Reinstatement of Walling as an EIT, and Memorandum from [REDACTED] to Director, CTC, May 9, 2008, Subject: Results of After-Action Review of [Rahim] Interrogation. A document drafted by one of the participants prior to the review suggested that "intense legal/policy scrutiny" was also a negative factor; however, this point was not mentioned in any of the post-review summaries, except in the context of discussing confusion over whether particular interrogation methods were legal. The summary documents state that CIA officers devised and implemented several different strategies, one after another. According to one of the documents, "[t]hese varied strategies were implemented due to frustration and concern regarding the lack of intelligence production."

¹⁰²⁴ Undated CIA Memorandum, titled [REDACTED] After-Action Review, author (REDACTED), Undated CIA Memorandum, titled [Rahim] After Action Review: HVDI Assessment, with attached addendum, [Rahim] Lessons Learned Review Panel Recommendations Concerning the Modification of Sleep Deprivation and Reinstatement of

ATTACHMENT B



DEPARTMENT OF DEFENSE
CHIEF PROSECUTOR OF MILITARY COMMISSIONS
1610 DEFENSE PENTAGON
WASHINGTON, DC 20301-1610

CHIEF PROSECUTOR

23 May 2016

MEMORANDUM FOR THE PERIODIC REVIEW BOARD

SUBJECT: Prosecution Position regarding Muhammad Rahim (ISN 10029)

1. Section 1023(b)(4)(D) of the National Defense Authorization Act for fiscal year 2012 requires that, in conducting its periodic review of detention, the Board consider, *inter alia*, the likelihood that a detainee may be subject to trial by military commission. The below prosecutorial position is provided to fulfill this requirement.
2. I have no concerns about the lawfulness of ISN 10029's detention under the law of armed conflict and also believe that continuing humane, secure, and legitimate detention under the law of armed conflict is a course of action completely consistent with the national security and justice interests of the United States. At this time, however, it is unlikely that I would swear charges against ISN 10029.

A handwritten signature in blue ink, appearing to read "Mark S. Martins", is located below the list.

MARK S. MARTINS
Brigadier General, U.S. Army
Chief Prosecutor

ATTACHMENT C

UNCLASSIFIED

Approved for Public Release

Unclassified Summary of Final Determination

<u>Date of Final Determination</u>	<u>Detainee Name</u>	<u>Detainee ISN</u>
19 SEP 2016	Muhammad Rahim	10029

The Periodic Review Board, by consensus, determined that continued law of war detention of the detainee remains necessary to protect against a continuing significant threat to the security of the United States.

In making this determination, the Board considered that the detainee was a trusted member of al-Qa'ida who worked directly for senior members of al-Qa'ida, including Usama Bin Laden, serving as a translator, courier, facilitator, and operative. The Board noted that the detainee had advanced knowledge of many al-Qa'ida attacks, to include 9/11, and progressed to paying for, planning, and participating in the attacks in Afghanistan against U.S. and Coalition targets. In addition, the Board noted that the detainee's lack of candor and credibility regarding the specifics of his activities prior to detention make his current mindset and intentions difficult to assess. Finally, the Board considered the detainee's refusal to take responsibility for his involvement with al-Qa'ida, his consistent and long-standing expressions of support for terrorist attacks against the U.S., his indifference to the impact of his prior actions, and that his extensive extremist connections provide him a path to re-engagement.

Approved for Public Release

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