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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

THE NEW YORK TIMES COMPANY and  
CHARLIE SAVAGE,

Plaintiffs,

v.

U.S. DEPARTMENT OF JUSTICE,

Defendant.

16 Civ. 6120 (RMB)

**NOTICE OF MOTION**

PLEASE TAKE NOTICE that upon the accompanying memorandum of law; the Declaration of Courtney J. O’Keefe, dated March 27, 2017, and attached exhibits; the Declaration of Mark W. Ewing, dated March 24, 2017; the Declaration of David M. Hardy, dated March 27, 2017; the Declaration of Eric F. Stein, dated March 27, 2017; the Department of Defense Declaration, dated March 27, 2017; the Declaration of Colonel Robert C. Moscati, dated March 27, 2017; the classified materials submitted by the government for the Court’s review *ex parte* and *in camera*; and all prior pleadings and proceedings herein, defendant the U.S. Department of Justice, by its attorney, Joon H. Kim, Acting United States Attorney for the Southern District of New York, shall move this Court, before the Honorable Richard M. Berman, United States District Judge, in the United States Courthouse, 500 Pearl Street, New York, New York, for summary judgment

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pursuant to Federal Rule of Civil Procedure 56.

Dated: New York, New York  
March 27, 2017

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16 Civ. 6120 (RMB)

**NOTICE OF LODGING OF  
CLASSIFIED DOCUMENTS**

The U.S. Department of Justice (“DOJ”), the defendant in the above-captioned matter, hereby provides notice that two classified documents have been submitted for the Court’s *in camera*, *ex parte* review: (1) an unredacted version of the *Vaughn* Index filed on the public ECF docket as Exhibit H to the Declaration of Courtney J. O’Keefe, dated March 27, 2017; and (2) a supplemental Declaration of David M. Hardy, dated March 27, 2017. In addition, DOJ has submitted for the Court’s *in camera*, *ex parte* review an unredacted version of the Department of Defense (“DoD”) Declaration, dated March 27, 2017, which has been redacted on the public ECF docket, consistent with 10 U.S.C. § 424(a)(2) and DoD policy, to protect the identity of the declarant. These submissions have been lodged with DOJ’s Classified Information Security Officer for secure storage and secure transmission to the Court.

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Dated: New York, New York  
March 27, 2017

JOON H. KIM  
Acting United States Attorney

By: /s/ Christopher Connolly  
CHRISTOPHER CONNOLLY  
Assistant United States Attorney

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X		
THE NEW YORK TIMES COMPANY and	:	
CHARLIE SAVAGE,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	16 Civ. 6120 (RMB)
	:	
U.S. DEPARTMENT OF JUSTICE,	:	
	:	
Defendant.	:	
	:	
-----X		

**MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT’S  
MOTION FOR SUMMARY JUDGMENT**

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## **PRELIMINARY STATEMENT**

Plaintiffs the New York Times Company and Charlie Savage bring this action pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, seeking the “threat assessment” portions of recommendation memoranda created by the Guantanamo Review Task Force (or “Task Force”). The Attorney General established the Task Force pursuant to his role as coordinator of the Review of Individuals Detained at Guantanamo Bay (the “Review”), which President Obama ordered through the issuance of Executive Order 13492. That Order charged certain cabinet principals (the “Review Participants”) with determining the appropriate disposition of Guantanamo detainees. The Task Force did not make disposition determinations; instead, its role was to gather information concerning each detainee from across the federal government, review that information, and make recommendations to the ultimate decision-makers regarding the proper disposition for each detainee. The Task Force recommendations took the form of memoranda, which in most cases included an evaluation of the threat a particular detainee posed to the national security of the United States.

The threat assessment sections of the Task Force recommendation memoranda are exempt from disclosure in full pursuant to FOIA Exemption 5, 5 U.S.C. § 552(b)(5), because they are inter- and intra-agency communications protected by the deliberative process privilege. The threat assessments are quintessentially deliberative: subordinates prepared them for the purpose of assisting the final decision-makers in reaching their disposition determinations, and they consist of the Task Force’s subjective assessment of the threat to national security posed by each detainee. Moreover, the threat assessments were not “expressly adopted” by the government: in rendering their final disposition determinations, the decision-makers never publicly referenced any Task Force recommendation, much less any specific threat assessment, and the decision-makers never

publicly stated that they had adopted any of the Task Force's reasoning and conclusions. Additionally, any factual material contained within the threat assessments is properly withheld: it cannot be segregated for release because it is inextricably intertwined with the deliberative material. Indeed, the Task Force's selection of certain information to assess detainee threats to national security is itself inherently part of the deliberative process.

Portions of the threat assessments are also properly withheld pursuant to several other FOIA exemptions. The applicability of these other exemptions is consistent with the nature of the information contained in the responsive records: these memoranda provide candid evaluations of potential threats to national security, including qualitative evaluations of the reliability and credibility of underlying source material, and much of that source material consists of classified information that relates to sensitive military, intelligence, and law enforcement activities. First, portions of the records are exempt in part under Exemption 1, 5 U.S.C. § 552(b)(1), because they contain intelligence information that is properly classified pursuant to Executive Order 13526. Second, portions of the records are exempt under Exemption 3, 5 U.S.C. § 552(b)(3), because they contain information that is specifically exempted from disclosure by statute. Third, the government properly withheld information bearing on the personal privacy of government personnel, detainees, or third parties under Exemption 6, 5 U.S.C. § 552(b)(6). Finally, portions of the records are exempt under Exemption 7, 5 U.S.C. § 552(b)(7), because they contain information compiled for law enforcement purposes that falls within one or more of Exemption 7's withholding categories.

Because the declarations submitted by the government in support of its motion for summary judgment logically and plausibly establish that the threat assessments are properly

withheld in full pursuant to Exemption 5, and in part pursuant to other exemptions, the government's motion should be granted in its entirety.

### **BACKGROUND**

#### **A. Executive Order 13492 and the Guantanamo Review Task Force**

On January 27, 2009, President Obama issued Executive Order 13492, which called for a “comprehensive interagency review” to “effect the appropriate disposition of individuals currently detained . . . at the Guantánamo Bay Naval Base.” E.O. 13492, 74 Fed. Reg. 4897, 4897-98 (Jan. 27, 2009). The Executive Order specified that the Review Participants would include the Attorney General, who was responsible for coordinating the Review, and the Secretaries of Defense, State, and Homeland Security, the Director of National Intelligence, the Chairman of the Joint Chiefs of Staff, and other officers or employees as determined by the Attorney General. *Id.* at 4898. The Review Participants were tasked with “assembl[ing] all information in the possession of the Federal Government that pertains to any individual [then] detained at Guantánamo and that [was] relevant to determining the proper disposition of any such individual.” *Id.* at 4898-99. The Review Participants were then charged with deciding whether the individual should be transferred or released, prosecuted in an Article III court or before a military commission, or dealt with in some other manner “consistent with the national security and foreign policy interests of the United States and the interests of justice.” *Id.*

In February 2009, to carry out the Executive Order's directives, the Attorney General established two bodies: the Task Force and the Review Panel. *See* Declaration of Courtney J. O'Keefe, dated Mar. 27, 2017 (“O'Keefe Decl.”) ¶ 12. The Task Force consisted of 60 career professionals drawn from the Department of Justice (“DOJ”), Department of Defense, Department of State, Department of Homeland Security, Federal Bureau of Investigation, Central Intelligence

Agency, and National Counterterrorism Center. *See id.*; Guantanamo Review Task Force Final Report (“Report”) (O’Keefe Decl., Ex. E) 3. The Task Force was charged with assembling and reviewing relevant information on each detainee and making written disposition recommendations. O’Keefe Decl. ¶ 12; Report 3. The Review Panel consisted of senior-level officials from each of the agencies identified in the Executive Order, who were delegated authority by their respective agency heads to decide the disposition of each detainee. O’Keefe Decl. ¶ 12; Report 4. If the Review Panel reached unanimous consent on the proper disposition of a detainee, that determination became the final position of the Review. O’Keefe Decl. ¶ 12; Report 5. Where the Review Panel was unable to reach a consensus or where higher-level review was appropriate, the Review Participants made the final determination of the Review. O’Keefe Decl. ¶ 12; Report 5.

The Task Force engaged in a complex, multi-stage review of the large volumes of classified information drawn from across the government concerning each detainee that it had assembled. This information included interrogation reports, the results of name traces run in certain intelligence and law enforcement databases, documentary and physical evidence recovered through counterterrorism operations, records compiled for administrative and legal proceedings, and records concerning the behavior and physical and mental health of the detainees during detention. *See* Report 5-6; O’Keefe Decl. ¶ 13.

Based on its comprehensive review, for each detainee, the Task Force prepared a written disposition recommendation memorandum, which was classified, setting forth a variety of issues for consideration by the Review Panel and, in certain instances, by the Review Participants. O’Keefe Decl. ¶¶ 14-16. Typically, the written recommendation memoranda included a threat assessment, in which the Task Force evaluated, where appropriate and possible, whether the

detainee posed “an identifiable threat to the national security of the United States.” *See* Task Force Detainee Review Guidelines (O’Keefe Decl., Ex. F) 3-4; O’Keefe Decl. ¶ 15.

In March 2009, the Task Force began conducting its reviews of individual detainees, and the Review Panel began meeting on a weekly basis to consider the Task Force’s recommendations and make final disposition determinations. Report 5-6. By January 2010, the Review Panel—or, in certain circumstances, the Review Participants—had rendered final disposition decisions for all detainees then remaining at Guantanamo. Report 9. Those final decisions were memorialized in a chart entitled “Guantanamo Review Dispositions,” since publicly disclosed, which provided only the detainee’s name, country of origin, identification number, and a brief explanation of the disposition determination. O’Keefe Decl. ¶ 17 & Ex. G. The Final Disposition Chart did not explain the rationale behind the final disposition determinations, did not refer to the Task Force’s analysis or recommendations, and did not indicate whether the final decision-makers had accepted or rejected the Task Force’s disposition recommendation or any portions of the Task Force’s analysis, including the threat assessments. *See* O’Keefe Decl. ¶¶ 16, 23, 28 & Ex. G. In fact, in some instances, the final decision of the Review differed from the Task Force’s recommendation. O’Keefe Decl. ¶¶ 16, 23.

Also in January 2010, the Task Force issued a Report, outlining its review process and providing an overview of the final disposition determinations. *See generally* Report. Similar to the Final Disposition Chart, the Report did not reference any specific written recommendation memorandum or threat assessment, did not reveal the disposition recommendations for any specific detainee, and did not indicate whether the final decision-makers had concurred with any particular Task Force recommendation or any portion of the Task Force’s analysis, including its threat assessments. *Id.*

Following the completion of its work, the Task Force disbanded. Because DOJ coordinated the Task Force's operations, it coordinates responses to FOIA requests seeking records related to the operation of the Review. *See* O'Keefe Decl. ¶ 11.

**B. Plaintiffs' FOIA Request and Complaint, and DOJ's Response**

By e-mail to DOJ and the Office of the Director of National Intelligence ("ODNI") dated June 13, 2016, plaintiff Charlie Savage made a FOIA request for "the threat assessments of Guantanamo detainees produced by the six-agency executive order task force appointed in 2009 to review each remaining prisoner and led by Matt Olsen." O'Keefe Decl., Ex. A; *see also* Declaration of Mark W. Ewing, dated Mar. 24, 2017 ("Ewing Decl.") ¶ 10. On August 2, 2016, plaintiffs commenced the instant lawsuit, seeking an order compelling DOJ and ODNI to disclose the threat assessments sought in the FOIA request. Complaint (ECF No. 1) ¶¶ 23, 29.<sup>1</sup>

As required by FOIA, and pursuant to this Court's order dated October 25, 2016 (ECF No. 14), DOJ undertook a review of the threat assessment sections of the Task Force recommendation memoranda. This review involved, among other things, consulting with other Executive Branch agencies with equities in the information contained in the records. *See* O'Keefe Decl. ¶ 7. By letter dated February 27, 2017, DOJ responded to plaintiffs' FOIA request, informing plaintiffs that it was withholding the responsive records in full under FOIA Exemption 5 because they are protected by the deliberative process privilege, and in part pursuant to Exemptions 1, 3, 5 (attorney work-product privilege), 6, and 7. *See id.* & Ex. C.<sup>2</sup>

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<sup>1</sup> By Stipulation and Order entered on February 27, 2017, ODNI was dismissed as a defendant in this matter. (ECF No. 17).

<sup>2</sup> The government has since determined that it does not seek to withhold portions of the records pursuant to Exemption 5 and the attorney work-product privilege.



## ARGUMENT

### **THE GOVERNMENT HAS PROPERLY WITHHELD THE THREAT ASSESSMENTS PURSUANT TO FOIA'S EXEMPTIONS**

#### **A. Standard of Review**

“Upon request, FOIA mandates disclosure of records held by a federal agency, unless the documents fall within enumerated exemptions.” *Dep’t of the Interior v. Klamath Water Users Protective Ass’n*, 532 U.S. 1, 8 (2001) (citations omitted). Although FOIA is meant to promote government transparency, *id.*, the FOIA exemptions are “intended to have meaningful reach and application,” *John Doe Agency v. John Doe Corp.*, 493 U.S. 146, 152 (1989). FOIA thus balances “the public’s right to know and the government’s legitimate interest in keeping certain information confidential.” *Assoc. Press v. U.S. Dep’t of Justice*, 549 F.3d 62, 65 (2d Cir. 2008).

“Summary judgment is the preferred procedural vehicle for resolving FOIA disputes.” *American Civil Liberties Union v. U.S. Dep’t of Homeland Security*, 973 F. Supp. 2d 306, 313 (S.D.N.Y. 2013). Summary judgment is warranted “if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). In a FOIA case, “[a]ffidavits or declarations . . . supplying facts indicating that the agency has conducted a thorough search and giving reasonably detailed explanations why any withheld documents fall within an exemption are sufficient to sustain the agency’s burden.” *Carney v. DOJ*, 19 F.3d 807, 812 (2d Cir. 1994).<sup>3</sup> Such declarations are “accorded a presumption of good faith,” *id.* (quotation marks omitted), and “an agency’s justification for invoking a FOIA

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<sup>3</sup> Because plaintiffs have previously informed the Court that they are not challenging the adequacy of the government’s search, *see* Ltr. from David E. McCraw, Esq., to Hon. Richard M. Berman, dated Mar. 7, 2017 (ECF No. 20), the only issue before the Court is the propriety of DOJ’s claimed exemptions.

exemption is sufficient if it appears logical or plausible,” *Wilner v. NSA*, 592 F.3d 60, 73 (2d Cir. 2009) (citation and quotation marks omitted).

**B. The Threat Assessments Are Exempt in Full Under Exemption 5 Because They Are Protected by the Deliberative Process Privilege**

DOJ properly withheld the threat assessments in full under Exemption 5, which protects from disclosure “inter-agency or intra-agency memorandums or letters which would not be available by law to a party . . . in litigation with the agency.” 5 U.S.C. § 552(b)(5). “By this language, Congress intended to incorporate into the FOIA all the normal civil discovery privileges.” *Hopkins v. HUD*, 929 F.2d 81, 84 (2d Cir. 1991). This includes documents protected by “the ‘deliberative process’ or ‘executive’ privilege, which protects the decisionmaking processes of the executive branch in order to safeguard the quality and integrity of governmental decisions.” *Id.* at 84; *see also NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 150–51 (1975) (“those who expect public dissemination of their remarks may well temper candor with a concern for appearances . . . to the detriment of the decision making process” (quotation marks omitted)).

The threat assessments fall squarely within the deliberative process privilege because they are predecisional, deliberative documents that reflect the opinions and recommendations of the Task Force, and were created in order to assist the Review Panel and Review Participants in making final disposition decisions. The ultimate decision-makers have never expressly adopted either the recommendations or the reasoning contained in the Task Force’s threat assessments. Additionally, the threat assessments do not contain any purely factual material that can be segregated and released. Accordingly, these records are properly withheld in full.

**1. The Threat Assessments Are Predecisional and Deliberative**

To fall within the deliberative process privilege, an agency record must satisfy two criteria: it “must be both ‘predecisional’ and ‘deliberative.’” *Grand Central Partnership, Inc. v. Cuomo*,

166 F.3d 473, 482 (2d Cir. 1999) (citations omitted). A document is “predecisional” when it “precedes, in temporal sequence, the ‘decision’ to which it relates,” *id.*, and is “prepared in order to assist an agency decisionmaker in arriving at his decision,” *Renegotiation Board v. Grumman Aircraft Engineering Corp.*, 421 U.S. 168, 184 (1975). “A document is ‘deliberative’ when it is actually . . . related to the process by which policies are formulated.” *Grand Central*, 166 F.3d at 482 (quotation marks omitted; alteration in original). In determining whether a document is deliberative, courts look to whether the document “formed an important, if not essential, link in [the agency’s] consultative process,” *id.* at 483, whether it reflects the opinions of the author rather than the policy of the agency, *id.*; *Hopkins*, 929 F.2d at 85, and whether it might “reflect inaccurately upon or prematurely disclose the views of [the agency],” *Grand Central*, 166 F.3d at 483. Predecisional, deliberative documents include “recommendations, draft documents, proposals, suggestions, and other subjective documents which reflect the personal opinions of the writer rather than the policy of the agency.” *Tigue v. Dep’t of Justice*, 312 F.3d 70, 80 (2d Cir. 2002) (quotation marks omitted); *Grand Central*, 166 F.3d at 482.

The threat assessments meet both criteria necessary for the deliberative process privilege to apply. First, the threat assessments are predecisional: the Task Force prepared the threat assessments to advise and assist the final decision-makers (the Review Panel or, in some instances, the Review Participants) in reaching a final disposition determination for each detainee. *See* O’Keefe Decl. ¶ 23; *see also Coastal States Gas Corp. v. Dep’t of Energy*, 617 F.2d 854, 868 (D.C. Cir. 1980) (“a document from a subordinate to a superior official is more likely to be predecisional”). As such, they “were not the final position of the interagency review and . . . did not contain binding policy or other guidance.” O’Keefe Decl. ¶ 23. Second, the threat assessments are deliberative: they were compiled as part of the process by which subordinates formulated

recommendations for deciding officials, setting forth the subordinates' subjective opinion on the threats to national security posed by each detainee, opinions on the quality of the evidence underlying those assessments, and recommendations as to how that subjective opinion should be factored into a final disposition determination. *See* O'Keefe Decl. ¶ 25. The Task Force developed the recommendation memoranda by evaluating information compiled about each detainee, and selecting the most relevant issues to present to the Review Panel. *See id.* ¶ 26. "The decision to include or exclude certain information from analytical documents gathered in the course of the Task Force official duties is itself an inherent part of the deliberative process." *Id.* The threat assessments are thus prototypical documents "reflecting advisory opinions, recommendations, and deliberations comprising part of a process by which governmental decisions and policies are formulated," *Hopkins*, 929 F.2d at 84-85 (quoting *Sears*, 421 U.S. at 150), and are therefore properly withheld under Exemption 5.

## **2. The Government Has Never Expressly Adopted the Threat Assessments' Analysis and Conclusions**

In narrow circumstances, "[a]n agency may be required to disclose a document otherwise entitled to protection under the deliberative process privilege if the agency has chosen 'expressly to adopt or incorporate by reference [a] . . . memorandum previously covered by Exemption 5 in what would otherwise be a final opinion.'" *Nat'l Council of La Raza v. U.S. Dep't of Justice*, 411 F.3d 350, 356 (2d Cir. 2005) (quoting *Sears*, 421 U.S. at 161 (alterations in original)). Express adoption requires a finding that the agency not only expressly adopted the conclusions in an otherwise deliberative document, but also expressly adopted the analysis in the document. *See id.* at 358 ("Mere reliance on a document's conclusions does not necessarily involve reliance on a document's analysis; both will ordinarily be needed before a court may properly find adoption or incorporation by reference."). Here, the government has never expressly adopted the

recommendations or analysis contained in the Task Force memoranda, including the Task Force evaluations of the potential threat posed by any specific detainee.

The government has never made any public reference to any Task Force threat assessment concerning a specific detainee—a threshold requirement that the Second Circuit has emphasized in determining whether a deliberative document has been expressly adopted through a public statement. *See, e.g., Wood v. FBI*, 432 F.3d 78, 84 (2d Cir. 2005) (no adoption where “neither [the endorsing official] nor any other high-level officials made any public references to the . . . [m]emo”); *Brennan Center for Justice v. U.S. Dep’t of Justice*, 697 F.3d 184, 205 n.17 (2d Cir. 2012) (finding adoption where the agency “stated publicly . . . that its action was based upon that memorandum, giving no other reasons or basis for its action”). The Final Disposition Chart memorializing the government’s final disposition determinations makes no mention of the threat assessments whatsoever. *See* O’Keefe Decl., Ex. G. Nor, for that matter, does the Task Force’s Report, which in any event is a summary of the Task Force’s work rather than a formal statement of the government’s final decisions. *See generally* Report. Indeed, DOJ is “not aware of any other official public statement by the Review Panel, [or] the Review Participants, adopting the conclusions or rationale of any threat assessment.” O’Keefe Decl. ¶ 28. Accordingly, these records are merely “preliminary memoranda and do not embody any final Executive Agency action.” *Id.* ¶ 23. Indeed, at times, the decision-makers’ final disposition determinations diverged from the Task Force’s recommendations. *Id.* ¶¶ 16, 23.

Because the government has never publicly referenced the threat assessments, it also has not explicitly relied on the assessments’ rationales—the second element necessary to establish express adoption. *La Raza*, 411 F.3d at 358; *Wood*, 432 F.3d at 84. “[T]he public is only marginally concerned with reasons supporting a policy which an agency has rejected, or with

reasons which might have supplied, but did not supply, the basis for a policy which was actually adopted on a different ground.” *Sears*, 421 U.S. at 152. Thus, it is not enough that the final decision-makers announced disposition determinations that might—in some but not all circumstances, *see* O’Keefe Decl. ¶¶ 16, 23—have coincided with the Task Force’s recommendations. *Wood*, 432 F.3d at 84; *La Raza*, 411 F.3d at 359. “If the agency merely carried out the recommended decision without explaining its decision in writing, we could not be sure that the memoranda accurately reflected the decisionmaker’s thinking.” *Afshar v. Dep’t of State*, 702 F.2d 1125, 1143 n.22 (D.C. Cir. 1983).

Put simply, the government did not “expose” the Task Force’s threat assessments “to public scrutiny” because the government has never publicly stated that the Review’s final dispositions were based on them. *Brennan Center*, 697 F.3d at 205 n.17. The government never made “a political or public relations calculation” to “reference what might otherwise be a protected document in explaining the course of action it has decided to take.” *Id.* at 205.

### **3. The Threat Assessments Do Not Contain Segregable, Wholly Factual Information**

The threat assessments are protected in full by the deliberative process privilege and do not contain any purely factual material that could be segregated for release. Factual material may fall outside the scope of the deliberative process privilege if it “‘is severable without compromising the private remainder of the documents.’” *Lead Industries Ass’n v. OSHA*, 610 F.2d 70, 85 (2d Cir. 1979) (quoting *EPA v. Mink*, 410 U.S. 73, 91 (1973)). But “[i]f the factual materials are ‘inextricably intertwined’ with policy making recommendations so that their disclosure would ‘compromise the confidentiality of deliberative information that is entitled to protection under Exemption 5’ . . . the factual materials themselves fall within the exemption.” *Id.* (quoting *Mink*, 410 U.S. at 92-93). That is precisely the situation here.

To the extent that the threat assessments contain any purely factual material, that material is inextricably linked to the explicitly evaluative nature of the records as a whole. *See id.* (“More is required than merely plucking factual segments from the reports[;] there must be a sensitive reference to the relation of the factual segments to the report as a whole.”). The threat assessments contain a careful selection of specific information drawn from large quantities of evidence compiled from across the government, in particular “intelligence reporting or law enforcement information,” and often “included candid evaluations of the reliability and credibility of each particular piece of evidence.” O’Keefe Decl. ¶ 15. More broadly, the Task Force sought to “succinctly summarize significant issues and present key background information” concerning threats to national security, and to “anticipate questions that the Review Panel may encounter when reaching a final disposition determination.” *Id.* ¶ 26. Insofar as it drew on facts or factual allegations in carrying out those tasks, that information cannot be uncoupled from the Task Force’s privileged deliberations.

Furthermore, mere disclosure of the information that the Task Force deemed relevant to its threat evaluations would constitute, in and of itself, a breach of the deliberative process privilege. In carrying out its assignment, the Task Force sifted through voluminous information and distilled to its essence the most pertinent material. *See id.* ¶ 15. In doing so, the Task Force often selected facts based on an assessment of their relevance and their reliability, including rendering an opinion as to whether certain underlying information was conclusory, properly supported by sufficient evidence, corroborated in a certain manner, or needed to be assessed in light of other applicable qualifications. Report 9. That very “selection of the facts thought to be relevant is part of the deliberative process” because “it necessarily involves policy-oriented *judgment.*” *Nat’l Security Archive v. CIA*, 752 F.3d 460, 465 (D.C. Cir. 2014) (citation and quotation marks omitted;

emphasis in original); *accord Lead Industries*, 610 F.3d at 85 (“Disclosing factual segments from the . . . summaries would reveal the deliberative process of summarization itself by demonstrating which facts in the massive rule-making record were considered significant . . .”). Accordingly, to the extent any “purely factual” material is contained in the threat assessments, that material cannot be produced without “compromising the private remainder of the documents.” *Lead Industries*, 610 F.3d at 85.

**C. Portions of The Threat Assessments Are Also Exempt Under Other FOIA Exemptions**

As explained below, and for all of the reasons set forth in the accompanying agency declarations, not only are the threat assessments properly withheld in full under Exemption 5, but portions of the records are also exempt pursuant to Exemptions 1, 3, 6, and 7.

**1. Exemption 1**

Exemption 1 protects from public disclosure matters that are “(A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order.” 5 U.S.C. § 552(b)(1). The current standard for classification is set forth in Executive Order 13526, 75 Fed. Reg. 707 (Jan. 5, 2010). Section 1.1 of the Executive Order lists four requirements for the classification of national security information: (1) an “original classification authority” must classify the information; (2) the information must be “owned by, produced by or for, or is under the control of the United States Government;” (3) the information must fall within one or more of the eight protected categories of information listed in section 1.4 of the E.O.; and (4) an original classification authority must “determine[] that the unauthorized disclosure of the information reasonably could be expected to result in damage to the national security” and be “able to identify or describe the damage.” E.O. 13526 § 1.1(a)(1)-(4).



The government's burden under Exemption 1 "is a light one." *ACLU v. DoD*, 628 F.3d 612, 624 (D.C. Cir. 2011); *accord Morley v. CIA*, 508 F.3d 1108, 1124 (D.C. Cir. 2007) ("little proof or explanation is required beyond a plausible assertion that information is properly classified"); *N.Y. Times Co. v. U.S. Dep't of Justice*, 872 F. Supp. 2d 309, 315 (S.D.N.Y. 2012). Decades of precedent firmly establish that the judiciary must defer to the Executive's predictions of national security harm that may attend public disclosure of classified records so long as such predictions appear logical or plausible, as is the case here. Deference is mandated because, as the courts have recognized, predictions of national security harm are inherently speculative, and only the agencies with expertise in the area are in a position to make such judgments. *See, e.g., Wilner*, 592 F.3d at 76 ("it is bad law and bad policy to second-guess the predictive judgments made by the government's intelligence agencies" regarding whether disclosure of information "would pose a threat to national security" (quotation marks omitted)); *ACLU v. Dep't of Justice*, 681 F.3d 61, 70 (2d Cir. 2012) ("[W]e have consistently deferred to executive affidavits predicting harm to the national security, and have found it unwise to undertake searching judicial review."); *Larson v. Dep't of State*, 565 F.3d 857, 865 (D.C. Cir. 2009) ("[t]he judiciary is in an extremely poor position to second-guess the predictive judgments made by the government's intelligence agencies" regarding national-security questions (quotation marks omitted)); *see also CIA v. Sims*, 471 U.S. 159, 179 (1985) (intelligence officials must "be familiar with 'the whole picture' as judges are not," and their decisions "are worthy of great deference given the magnitude of the national security interests and potential risks at stake").

Given these principles, the government's declarations amply demonstrate that its assertion of Exemption 1 is proper. At the threshold, the declarations establish that (1) an original classification authority has determined that the information at issue is currently and properly

classified, *see* Ewing Decl. ¶ 9; Declaration of David M. Hardy, dated Mar. 27, 2017 (“Hardy Decl.”) ¶ 2<sup>4</sup>; Declaration of Eric F. Stein, dated Mar. 27, 2017 (“Stein Decl.”) ¶ 2; Department of Defense Declaration, dated Mar. 27, 2017 (“DoD Decl.”) ¶ 10<sup>5</sup>; (2) the information is owned by and is under the control of the government, *see* Ewing Decl. ¶ 13; Hardy Decl. ¶ 8; Stein Decl. ¶ 14; DoD Decl. ¶ 4; and (3) the withheld information falls within one or more of the categories described in E.O. 13526 section 1.4, *see* Ewing Decl. ¶¶ 13-22; Hardy Decl. ¶¶ 8-27; Stein Decl. ¶¶ 9-18; DoD Decl. ¶¶ 11-23. Additionally, DOJ has properly withheld certain information pursuant to section 2.1 of the Executive Order, which provides for the withholding of records that are derived from classified materials. *See* E.O. 13526 § 2.1; O’Keefe Decl. ¶ 30.

The declarations also logically and plausibly explain why the unauthorized disclosure of the withheld information could be expected to cause damage to the national security of the United States. First, the government has properly withheld information pertaining to intelligence sources and methods. *See* E.O. 13526 § 1.4(c); Ewing Decl. ¶¶ 15-20; Stein Decl. ¶ 18; Hardy Decl. ¶¶ 20-25; DoD Decl. ¶¶ 15-19. This includes, among other things, information about signals intelligence sources, human intelligence sources, foreign government liaisons, covert field installations, and classification and dissemination control markings. Ewing Decl. ¶¶ 15-20. “[R]elease of this information could permit hostile non-U.S. persons, entities, and foreign governments to appraise the scope, focus, location, target, and capabilities of the [government’s] intelligence-gathering methods and activities, and allow hostile agents to devise countermeasures

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<sup>4</sup> The FBI is also submitting an *Ex Parte, In Camera* Declaration of David M. Hardy, dated March 27, 2017, in further support of its invocation of Exemptions 1, 3, and 7(E).

<sup>5</sup> The name and identifying information of the declarant submitting the DoD Declaration has been redacted pursuant to 10 U.S.C. § 424(a)(2), and consistent with DoD policy. *See* DoD Decl. at 1 n.1. An unredacted version of the DoD Declaration is being provided to the Court *ex parte*.

to circumvent these intelligence activities or methods and render them useless in providing intelligence information.” Hardy Decl. ¶ 25. Moreover, human intelligence sources “can be expected to furnish information only when confident that they are protected from retribution by the absolute secrecy surrounding their relationship to the United States government. Sources that are compromised become extremely vulnerable to retaliation from a variety of entities . . . .” DoD Decl. ¶ 16.

Second, the government has properly withheld foreign government information. *See* E.O. 13526 § 1.4(b); Ewing Decl. ¶¶ 15, 17, 20; DoD Decl. ¶¶ 13-14; Stein Decl. ¶¶ 15-17; Hardy Decl. ¶¶ 13-19; *see also* E.O. 13526 § 6.1(s) (“foreign government information” includes “information provided to the United States by a foreign government or governments . . . with the expectation that the information, the source of the information, or both, are to be held in confidence”). For example, foreign liaison services and foreign government officials provide sensitive information to the United States in confidence. *See* Ewing Decl. ¶ 17; Hardy Decl. ¶ 14; Stein Decl. ¶ 17. Accordingly, it is logical to predict that disclosure of such information could damage the United States’ relations with such foreign entities, who may discount future assurances that information will be kept confidential—thus adversely affecting the United States’ intelligence-gathering capabilities. *See* Ewing Decl. ¶ 17; Hardy Decl. ¶¶ 15-19; Stein Decl. ¶ 17; DoD Decl. ¶ 14; *see also* E.O. 13526 § 1.1(d) (“The unauthorized disclosure of foreign government information is presumed to cause damage to the national security.”).

Third, the government has properly withheld information pertaining to the foreign relations or foreign activities of the United States. E.O. 13526 § 1.4(d); Hardy Decl. ¶¶ 26-27; Ewing Decl. ¶¶ 17-18; DoD Decl. ¶¶ 20-21. This includes, for example, “sensitive intelligence information gathered by the United States either about or from a foreign country,” Hardy Decl. ¶ 26, and

information about “places where the Intelligence Community maintains a presence” abroad, Ewing Decl. ¶ 18. It is logical to conclude that release of such information would “have a chilling effect on current U.S. foreign relations, and any future relations, inasmuch as potential associations might be precluded for fear of exposure, especially with confidential sources.” DoD Decl. ¶ 21; *see also* Hardy Decl. ¶ 27 (release could, among other things, “lead to diplomatic or economic retaliation against the United States,” and jeopardize sources of intelligence).

Fourth, the government has properly withheld information relating to military and counterterrorism operations, such as the Department of Defense’s operation of the military detention facility at Guantanamo Bay and the movement of individuals detained there. *See* E.O. 13526 § 1.4(a); DoD Decl. ¶¶ 11-12. Disclosure of that information would pose security concerns and could jeopardize order and discipline at Guantanamo, as well as place United States or foreign personnel and assets in danger. DoD Decl. ¶ 12. Relatedly, DoD properly withheld information pertaining to the vulnerabilities or capabilities of its systems and installations. *See* E.O. 13526 § 1.4(g); DoD Decl. ¶¶ 22-23. In particular, it withheld information concerning the military detention facility at Guantanamo Bay, the disclosure of which logically “could jeopardize the safety and security of [DoD personnel stationed at Guantanamo] and the detainees . . . .” *Id.* ¶ 23.

Because the government’s declarations make “plausible assertion[s] that information” in the threat assessments “is properly classified,” *Morley*, 508 F.3d at 1124, the information is properly withheld under Exemption 1.

## **2. Exemption 3**

The government has also properly invoked Exemption 3 to protect material “specifically exempted from disclosure by statute.” 5 U.S.C. § 552(b)(3). The Exemption 3 analysis is straightforward: the Court need only determine whether the statute pursuant to which the

government withholds the information is an exemption statute under FOIA, and whether the withheld material falls within its scope. *Sims*, 471 U.S. at 167; *Wilner*, 592 F.3d at 72. As the Second Circuit has explained, “Exemption 3 differs from other FOIA exemptions in that its applicability depends less on the detailed factual contents of specific documents; the sole issue for decision is the existence of a relevant statute and the inclusion of withheld material within the statute’s coverage.” *Wilner*, 592 F.3d at 72 (quotation marks omitted). The government meets that standard here.

Several withholding statutes apply to protect national security information contained in the threat assessments. First, ODNI, the FBI, and DoD have properly invoked section 102A(i)(1) of the National Security Act of 1947, as amended, 50 U.S.C. § 3024(i)(1), which requires “[t]he Director of National Intelligence [to] protect intelligence sources and methods from unauthorized disclosure.” *See* Ewing Decl. ¶ 24; Hardy Decl. ¶ 29-32; DoD Decl. ¶ 24. It is well settled that this statute qualifies as a withholding statute under Exemption 3. *See Wilner*, 592 F.3d at 72. The National Security Act vests the Director of National Intelligence with “very broad authority to protect all sources of intelligence information from disclosure.” *ACLU*, 681 F.3d at 73 (quoting *Sims*, 471 U.S. at 168-69). Indeed, the Supreme Court has instructed that the “plain meaning” of intelligence sources and methods . . . may not be squared with any limiting definition that goes beyond the requirement that the information fall within the Agency’s mandate to conduct foreign intelligence.” *Sims*, 471 U.S. at 169. Here, the government has invoked the National Security Act to protect intelligence sources and methods. Ewing Decl. ¶ 24; Hardy Decl. ¶ 30-31; DoD Decl. ¶ 24. That information consists of precisely the types of sources and methods that courts have held falls within the scope of the National Security Act. *See, e.g., Schoenman v. FBI*, 841 F. Supp. 2d 69, 83-84 (D.D.C. 2012) (covert installations, dissemination-control markings, technical

intelligence collection); *Amnesty Int'l v. CIA*, 728 F. Supp. 2d 479, 503 (S.D.N.Y. 2010) (foreign government liaisons, covert field installations, clandestine intelligence collection operations, cryptonyms and pseudonyms, dissemination control markings).

Similarly, ODNI has also withheld certain information pursuant to Section 6 of the National Security Agency (“NSA”) Act, 50 U.S.C. § 3605, which provides that “[n]othing in this Act or in any other law . . . shall be construed to require the disclosure of the organization of any function of the National Security Agency, [or] of any information with respect to the activities thereof . . . .” *See* Ewing Decl. ¶ 25. Like the National Security Act, the NSA Act is a withholding statute, *see Wilner*, 592 F.3d at 72, and it “provides absolute protection” to any information, like that contained in the threat assessments, concerning the NSA, *Larson*, 565 F.3d at 868 (citation omitted); *see also Wilner*, 592 F.3d at 75 (noting the NSA Act’s “broad language”).

Three other statutes likewise support the government’s invocation of Exemption 3. First, 18 U.S.C. § 798 prohibits the unauthorized disclosure of classified information “concerning the communication intelligence activities of the United States” or “obtained by the process of communication intelligence from the communications of any foreign government.” *See* Ewing Decl. ¶ 26. That statute qualifies as a withholding statute under Exemption 3. *See Larson*, 565 F.3d at 868 (citing *N.Y. Times Co. v. Dep’t of Defense*, 499 F. Supp. 2d 501, 512–13 (S.D.N.Y. 2007)). Second, DoD has invoked 10 U.S.C. § 424(a)(2), which prohibits disclosure of “the number of persons employed by or assigned to any” intelligence organization identified in the statute, “or the name, official title, occupational series, grade, or salary of any such person.” *See* DoD Decl. ¶ 25. Under 10 U.S.C. § 424(b)(1), DoD’s Defense Intelligence Agency qualifies for this protection, and information specified by the statute may be withheld under Exemption 3, *see Freedom Watch, Inc. v. Nat’l Security Agency*, 197 F. Supp. 3d 165, 174 (D.D.C. 2016). Finally,

DoD has withheld personal identifying information under 10 U.S.C. § 130b, which allows the Secretary of Defense to withhold “personally identifying information regarding . . . any member of the armed forces assigned to an overseas unit, a sensitive unit, or a routinely deployable unit.” *See* DoD Decl. ¶ 26. Such information is also appropriately withheld under Exemption 3 pursuant to that statute. *See Hall v. CIA*, 881 F. Supp. 2d 38, 66 (D.D.C. 2012).

### **3. Exemption 6**

The government has also properly withheld information pursuant to Exemption 6, which exempts from disclosure information from personnel, medical, or other similar files, the disclosure of which “would constitute a clearly unwarranted invasion of personal privacy.” 5 U.S.C. § 552(b)(6). The purpose of Exemption 6 is to “protect individuals from the injury and embarrassment that can result from the unnecessary disclosure of personal information.” *U.S. Dep’t of State v. Washington Post Co.*, 456 U.S. 595, 599 (1982). The statutory language concerning files “similar” to personnel or medical files has been read broadly by the Supreme Court to encompass any “information which applies to a particular individual . . . sought from government records.” *Id.* at 602.

In determining whether personal information is exempt from disclosure under Exemption 6, the Court must balance the public’s need for this information against the individual’s privacy interest. *See Wood*, 432 F.3d at 86. “The privacy side of the balancing test is broad and encompasses all interests involving the individual’s control of information concerning his or her person.” *Id.* at 88. Accordingly, even a small privacy interest triggers a balancing analysis. *See Associated Press v. DoD*, 554 F.3d 274, 285 (2d Cir. 2009). On the other hand, the “only relevant public interest in disclosure to be weighed in this balance is the extent to which disclosure would serve the core purpose of the FOIA, which is contributing significantly to public understanding of

*the operations or activities of the government.*” *DoD v. FLRA*, 510 U.S. 487, 495 (1994). “The requesting party bears the burden of establishing that disclosure of personal information would serve a public interest cognizable under FOIA.” *Associated Press*, 549 F.3d at 66. This purpose is not furthered by disclosure of information that “reveals little or nothing about an agency’s own conduct.” *DOJ v. Reporters Comm. for Freedom of Press*, 489 U.S. 749, 773 (1989).

Here, DoD has invoked Exemption 6 to withhold three categories of information. First, DoD has withheld personally identifying information pertaining to its own personnel who are at the military rank of Colonel or below, or at the government service level GS-15 or below. DoD Decl. ¶ 28. Second, it has withheld medical and psychological information concerning the detainees themselves. *See id.* ¶ 29. Finally, it has withheld information concerning third parties, such as detainees’ family members. *See id.* ¶ 30. DOJ has also withheld third-party names under Exemption 6. *See O’Keefe Decl.* ¶ 31. This is precisely the type of information that courts have routinely held falls within Exemption 6. *Associated Press*, 554 F.3d at 285 (names and addresses of Guantanamo detainees’ family members are properly withheld under Exemption 6); *see also Judicial Watch, Inc. v. FDA*, 449 F.3d 141, 152 (D.C. Cir. 2006) (Exemption 6 applies to “files about an individual” and “bits of personal information, such as names and addresses”). Furthermore, disclosure of this personal identifying information would not contribute “significantly to public understanding of the operations or activities of the government.” *FLRA*, 510 U.S. at 495-96. Accordingly, the information is properly withheld.

#### **4. Exemption 7**

Finally, the government properly withheld information pursuant to Exemption 7, 5 U.S.C. § 552(b)(7), which exempts from disclosure “records or information compiled for law enforcement purposes” that fall within one or more of the exemption’s withholding categories.



*Exemption 7(A).* Exemption 7(A) applies to information that “could reasonably be expected to interfere with enforcement proceedings.” 5 U.S.C. § 552(b)(7)(A). The exemption involves a two-step analysis focused on whether the law enforcement proceeding is pending or prospective, and whether release of the information in question could reasonably be expected to cause some articulable harm. *See NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 224 (1978); *Sussman v. U.S. Marshals Service*, 494 F.3d 1106, 1113-14 (D.C. Cir. 2007). Here, the FBI has asserted Exemption 7(A) “to protect the names and file numbers of pending FBI investigations and other identifying information that would reveal the targets of those investigations.” Hardy Decl. ¶ 40. The FBI has plausibly determined that release of this information “could result not only in the acknowledgment of the existence of an investigation, but also in the identification of suspects and thus jeopardize the investigation.” *Id.* Similarly, DoD has withheld information relating to ongoing or anticipated Article III or military commission prosecutions, or information pertaining to detainees who might appear as witnesses in prosecutions. *See* Declaration of Colonel Robert C. Moscatti, dated Mar. 27, 2017 (“Moscatti Decl.”) ¶¶ 4-6. Given the deference afforded to agencies in applying Exemption 7(A) in the national security context, *see Ctr. for Nat’l Security Studies v. DOJ*, 331 F.3d 918, 928, 932 (D.C. Cir. 2003), these declarations support the government’s invocation of the exemption.

*Exemption 7(B).* The FBI has also invoked Exemption 7(B) to protect law enforcement records, the disclosure of which “would deprive a person of a right to a fair trial or an impartial adjudication.” 5 U.S.C. §552(b)(7)(B). Records fall within this exemption when (1) “a trial or adjudication is pending or truly imminent,” and (2) “it is more probable than not that disclosure of the material sought would seriously interfere with the fairness of those proceedings.” *Washington Post v. DOJ*, 863 F.2d 96, 102 (D.C. Cir. 1988). In particular, records fall within this exemption

when “disclosure through FOIA would furnish access to a document not available under the discovery rules and thus would confer an unfair advantage on one of the parties.” *Id.* The records withheld here pursuant to this exemption relate to certain detainees against whom law enforcement proceedings are ongoing or reasonably anticipated. Hardy Decl. ¶ 38. Disclosure of the material in these records would provide access to materials that are not typically discoverable. *Id.* ¶ 39.

*Exemption 7(C).* Much like Exemption 6, Exemption 7(C) protects law enforcement records or information that “could reasonably be expected to constitute an unwarranted invasion of personal privacy.” 5 U.S.C. § 552(b)(7)(C). But courts have required a lesser showing under Exemption 7(C), *see Nat’l Archives & Records Admin. v. Favish*, 541 U.S. 157, 166 (2004), applying Exemption 7(C) wherever “the invasion of personal privacy resulting from release of the information would outweigh the public interest in disclosure,” *Halpern v. FBI*, 181 F.3d 279, 296 (2d Cir. 1999). The information withheld by the FBI here—specifically, the names and other personal identifying information FBI personnel, third parties who are of investigative interest, and third parties who are not the subject of an investigation, but who are mentioned in the records—falls squarely within this exemption. *See* Hardy Decl. ¶¶ 43-46.

*Exemption 7(D).* Exemption 7(D) protects law enforcement records that “could reasonably be expected to disclose the identity of a confidential source, including a . . . foreign agency or authority . . . which furnished information on a confidential basis.” 5 U.S.C. § 552(b)(7)(D). Because Exemption 7(D) is meant to ensure that “confidential sources are not lost through retaliation against the sources for past disclosure or because of the sources’ fear of future disclosure,” its application is “robust.” *Brant Construction Co. v. EPA*, 778 F.2d 1258, 1262 (7th Cir. 1985). For example, the FBI has withheld certain information in the threat assessments under Exemption 7(D) that concern the FBI’s interaction with foreign government agencies, where those

agencies have asked that their interactions with, and the information they provided to, the FBI, remain confidential. *Hardy Decl.* ¶¶ 50-53. The FBI's express assurance of confidentiality in these circumstances renders Exemption 7(D) applicable. *See Williams v. FBI*, 69 F.3d 1155, 1159 (D.C. Cir. 1995) (information provided pursuant to express assurances of confidentiality are exempt from disclosure).

*Exemption 7(E)*. Exemption 7(E) protects information that “would disclose techniques and procedures for law enforcement investigations or prosecutions.” 5 U.S.C. § 552(b)(7)(E). Such techniques and procedures are categorically exempt from disclosure, without any need for inquiry into the harm that would result from their disclosure. *See Allard K. Lowenstein Int'l Human Rights Project v. DHS*, 626 F.3d 678, 681 (2d Cir. 2010). Here, the FBI properly withheld polygraph details, methods for the collection and analysis of intelligence, sensitive file and report numbers, and database search results. *See Hardy Decl.* ¶¶ 58-64.

### **CONCLUSION**

For the foregoing reasons, and all other reasons set forth in the accompanying declarations, the government's motion for summary judgment should be granted.

Date: New York, New York  
March 27, 2017

Respectfully submitted,

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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

THE NEW YORK TIMES COMPANY and  
CHARLIE SAVAGE,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF  
JUSTICE,

Defendant.

No. 16 Civ. 6120 (RMB)

**DECLARATION OF COURTNEY J. O'KEEFE**

I, Courtney J. O'Keefe, declare the following to be true and correct:

1. I am an Attorney-Advisor in the Office of Information Policy (OIP), United States Department of Justice (DOJ). In this capacity, I am responsible for, among other things, reviewing records and coordinating the handling of the Freedom of Information Act (FOIA) requests processed by the Initial Request Staff (IR Staff) of OIP that are subject to litigation. The IR Staff of OIP is responsible for processing FOIA requests seeking records from within OIP and from six senior leadership offices of the Department of Justice, specifically the Offices of the Attorney General (OAG), Deputy Attorney General (ODAG), Associate Attorney General (OASG), Legal Policy (OLP), Legislative Affairs (OLA), and Public Affairs (PAO). The IR Staff determines whether records responsive to access requests exist and, if so, whether they can be released in accordance with the FOIA. In processing such requests, the IR Staff consults with personnel in the senior leadership offices and, when appropriate, with other components within the Department of Justice, as well as with other Executive Branch agencies.

2. I make the statements herein on the basis of personal knowledge, including my review of the records discussed herein, as well as on information provided to me by others within the Executive Branch of the Federal Government with knowledge of the records at issue in this case, and on information acquired by me in the course of performing my official duties.

Plaintiffs' FOIA Request

3. By email dated June 13, 2016, and received by OIP on June 14, 2016, Plaintiffs submitted a FOIA request seeking from DOJ "the threat assessments of [Guantanamo Bay Naval Base] detainees produced by the six-agency executive order task force appointed in 2009 to review each remaining prisoner and led by Matt Olsen." A copy of this FOIA request, dated June 13, 2016, is attached hereto as Exhibit A.

4. By letter dated July 12, 2016, OIP acknowledged Plaintiffs' FOIA request, and informed Plaintiffs that because the records sought required a search in another office, the request fell within unusual circumstances pursuant to 28 C.F.R. § 16.5(c). In this acknowledgement letter, OIP further advised Plaintiffs that the request had been placed in OIP's complex processing track, and that OIP would need to extend the time limit to respond to Plaintiffs' request. A copy of OIP's acknowledgement letter to Plaintiffs, dated July 12, 2016, is attached hereto as Exhibit B.

5. Plaintiffs filed suit on August 2, 2016. See Compl., ECF No. 01.

6. On October 25, 2016, the Court directed DOJ to respond to Plaintiffs' request by February 27, 2017. See Order, ECF No. 14.

7. By letter dated February 27, 2017, OIP provided its final response to Plaintiffs advising that the records responsive to Plaintiffs' request, totaling 1,817 pages,<sup>1</sup> were being

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<sup>1</sup> In the course of re-reviewing the records for the creation of this declaration and the accompanying Vaughn Index, OIP discovered that seven pages of non-responsive records had been inadvertently included in the original page

withheld in full pursuant to Exemption 5 of the FOIA, 5 U.S.C. § 552(b)(5). Additionally, after having consulted with other Executive Branch agencies with equities in the information contained within the records, OIP explained that the records were also being withheld in part pursuant to Exemptions 1, 3, 6, 7(A), 7(B), 7(C), 7(D), and 7(E) of the FOIA, 5 U.S.C. § 552(b)(1), (b)(3), (b)(6), (b)(7)(A), (b)(7)(B), (b)(7)(C), (b)(7)(D), and (b)(7)(E).<sup>2</sup> A copy of OIP's final response letter, dated February 27, 2017, is attached hereto as Exhibit C.

8. This declaration details the applicability of Exemption 5 to the records at issue in this case and provides the basis for DOJ's conclusion that none of the records at issue in this case are appropriate for disclosure. This declaration also addresses DOJ Civil Division's withholding of certain derivative information in part pursuant to Exemptions 1, 6, and 7(C) of the FOIA. Portions of the records referenced herein are also being withheld pursuant to FOIA Exemptions 1, 3, 6, 7(A), 7(B), 7(C), 7(D), and 7(E), which are being addressed separately in declarations authored by the Office for the Director of National Intelligence (ODNI Declaration), the Federal Bureau of Investigation (FBI Declaration), the Department of Defense (DoD Declaration), and the Department of State (State Declaration). Accordingly, this declaration incorporates by reference the ODNI Declaration, the FBI Declaration, the DoD Declaration, and the State Declaration as filed contemporaneously. The aforementioned declarations should be read in

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count provided to Plaintiffs; accordingly, the accurate page count of responsive records is 1,817 pages, not 1,824 pages, as stated in OIP's February 27, 2017 letter.

<sup>2</sup> In OIP's final response letter to Plaintiffs, OIP advised that it was withholding records in part pursuant to the attorney work-product privilege of Exemption 5 of the FOIA. However, in the course of re-reviewing the records for the creation of this declaration and the accompanying Vaughn Index, OIP has determined that Exemption 5 will no longer be asserted in part.

tandem with the corresponding Vaughn Index prepared by OIP, filed contemporaneously, and attached hereto.<sup>3</sup>

Overview of Material Withheld on Behalf of the Department of Justice

9. As described below, I have reviewed the records responsive to Plaintiffs' FOIA request and set forth my determination that these threat assessments are protected in full by the deliberative process privilege pursuant to Exemption 5 of the FOIA. There are no non-exempt portions of the threat assessments that can be reasonably segregated from exempt information and, accordingly, no information in the threat assessments is appropriate for release. In addition, portions of the records in which DOJ Civil Division has equities are exempt pursuant to Exemptions 1, 6, and 7(C) of the FOIA.

Overview of the Guantanamo Review Task Force

10. On January 22, 2009, President Obama issued Executive Order 13492 (the Order), entitled "Review and Disposition of Individuals Detained at the Guantanamo Bay Naval Base and Closure of Detention Facilities." See 74 Fed. Reg. 4897-4900. The Order called for a prompt and comprehensive interagency review of all individuals then detained at Guantanamo Bay Naval Base [Guantanamo Bay]. The Order instructed that the review be conducted by a panel of six cabinet principals (the Review Participants) including the Attorney General, the Secretary of Defense, the Secretary of State, the Secretary of Homeland Security, the Director of National Intelligence, and the Chairman of the Joint Chiefs of Staff, as well as other federal officers or employees as designated by the Attorney General. Id. at 4898. Pursuant to the Order,

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<sup>3</sup> The unclassified Vaughn Index is attached hereto as Exhibit H. A classified version of the Vaughn Index, which identifies the types of information that may or may not have been gathered by certain members of the Intelligence Community for a particular detainee, has been submitted *ex parte* for the Court's *in camera* review.

the Review Participants were directed to compile all pertinent information in the federal government's possession that related to individuals detained at Guantanamo Bay, and to determine how to bring about the proper disposition of each detainee. Id. at 4898-4999. A copy of Executive Order 13492, dated January 22, 2009, is attached hereto as Exhibit D.

11. DOJ was appointed to coordinate the interagency compilation of information and review of all remaining individuals then detained at Guantanamo Bay. Id. at 4898. Accordingly, DOJ serves as the coordinator to respond to FOIA requests for records produced by this interagency review. Much of the information contained within these records is sourced from records and information owned and controlled by other federal agencies that contributed to this interagency review.

12. To implement the Order, the Attorney General established the Guantanamo Review Task Force (Task Force) and a senior-level Review Panel. The Task Force was responsible for assembling and examining relevant information pertaining to the Guantanamo detainees and making recommendations on their proper dispositions. The Review Panel, consisting of officials with delegated authority from their respective agencies to decide the disposition of each detainee, reviewed the Task Force's recommendations and made disposition decisions on a rolling basis. Where the Review Panel did not reach consensus, or where higher-level review was appropriate, the Review Participants enumerated in the Executive Order determined the proper disposition of the detainee. See Guantanamo Review Task Force, Final Report (Final Report), at 3-5. A copy of the Final Report, dated January 22, 2010, is attached hereto as Exhibit E.



13. The Task Force conducted a complex, multi-stage review process, compiling voluminous information from across the federal government that related to each detainee. The type of information gathered by the Task Force included, among other things:

summaries of biographic and capture information; interrogation reports from custodial interviews of the detainees; records of Department of Defense administrative proceedings involving the detainees, i.e., Combatant Status Review Tribunals and Administrative Review Board proceedings; the results of name traces run for detainees in certain intelligence databases maintained by the Central Intelligence Agency and National Security Agency; the results of name traces run for detainees in law enforcement databases maintained by the Federal Bureau of Investigation; investigative records maintained by the Office of Military Commissions–Prosecution (“OMC”) and Criminal Investigative Task Force within the Department of Defense; records assembled by the Department of Justice for purposes of defending habeas litigation brought by detainees to challenge their detention; recidivism assessments concerning former detainees; finished intelligence products on the detainee population and on general topics of interest to the Task Force’s work; and information concerning potential destination countries for detainees approved for transfer or release. The Task Force also accepted written submissions made on behalf of individual detainees by their counsel or other representatives.

Final Report, at 5.

14. After completing a thorough review of all pertinent information about each detainee, the Task Force prepared recommendation memoranda assessing a variety of factors for evaluation by the Review Panel. The recommendation memoranda generally contained candid assessments of potential national security threats posed by each detainee, prosecutorial evaluations concerning the feasibility, propriety, and likelihood of success of potential criminal prosecutions, evaluations of the legality of the continued detention of certain detainees, and frank assessments of possible options for transferring detainees to foreign nations. See Final Report at 3-5.

15. Nearly every recommendation memorandum created by the Task Force contained an evaluation of the threat to the national security of the United States posed by an individual

detainee. These threat assessments were based upon specific pieces of evidence that Task Force members selected from the larger pool of information that had been compiled for each detainee. This evidence frequently consisted of intelligence reporting or law enforcement information related to a particular detainee. The assessments included candid evaluations of the reliability and credibility of each particular piece of evidence, which were intertwined with the Task Force's appraisal of the level of the detainee's potential threat to the United States. In preparing the threat assessments, the Task Force considered the totality of the circumstances related to each detainee, but attempted to focus on certain factors when possible. These factors included, as outlined in the Guantanamo Review Task Force Detainee Review Guidelines, the detainee's involvement in terrorist activities; whether the individual supported the Taliban or al Qaida; the extent to which the detainee possessed knowledge, skills, or training that had been, or could be used for terrorist purposes; the extent of the detainee's ties to terrorist or extremist organizations; indications that the detainee intended to return to the battlefield or engage in terrorism upon release; the detainee's physical and psychological condition; the detainee's detention history, and any other relevant factors bearing on the national security and foreign policy interest of the United States or the interests of justice. See Guantanamo Review Task Force Detainee Review Guidelines (Review Guidelines), at 3-4. A copy of the Review Guidelines, revised June 30, 2009, is attached hereto as Exhibit F.

16. The Task Force ultimately presented each recommendation memorandum to the Review Panel to evaluate prior to making a disposition determination. In many instances, the Review Panel reached unanimous consensus on the appropriate disposition of a detainee, and its determination became the final disposition decision. In other instances — where the Review Panel was not able to reach consensus or when additional review was deemed appropriate — the

Review Participants convened to determine the ultimate disposition of a particular detainee. See Final Report, at 5. Notably, neither the Review Panel nor the Review Participants ever adopted the findings or the recommendations of the Task Force as the final disposition determination; indeed, in some instances, the final disposition determination for a particular detainee differed from the recommendation contained in the Task Force's memorandum.

17. The final disposition determinations of the interagency review were memorialized in the Guantanamo Review Dispositions chart, which is dated January 22, 2010. An unclassified version of the Guantanamo Review Dispositions chart, dated January 22, 2010, is attached hereto as Exhibit G.

#### Explanation of Withheld Information

18. The information withheld consists of the threat assessment portions of recommendation memoranda created by the Task Force for the Review Panel, and in certain instances, the Review Participants. The threat assessments encompass the Task Force's evaluations of the threat to the national security of the United States posed by each detainee.<sup>4</sup>

#### Exemption 5: Threshold

19. Exemption 5 of the FOIA exempts from mandatory disclosure "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." 5 U.S.C. § 552 (b)(5).

20. The information withheld, consisting of threat assessments prepared by the Task Force, are communications generated by, exchanged within, and internal to the Executive Branch. As such, they are "inter-agency and intra-agency" records and satisfy the threshold of Exemption 5 of the FOIA. As discussed in detail below, because these records are pre-decisional

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<sup>4</sup> Plaintiffs are not challenging the determination that the threat assessments comprise the universe of responsive material. Rather, Plaintiffs are only challenging the withholding of the records.

and deliberative, and have not been expressly adopted as agency policy, they fall squarely within the deliberative process privilege and accordingly are being withheld in full.

Exemption 5: Deliberative Process Privilege

21. The deliberative process privilege is intended to protect the decision-making processes of the Executive Branch from public scrutiny in order to enhance the quality of Executive Branch decisions. To be protected by the deliberative process privilege, the information at issue must be both “pre-decisional” and “deliberative.”

Threat Assessments

22. The threat assessment portions of the recommendation memoranda prepared by the Task Force are properly protected in their entirety by the deliberative process privilege encompassed by Exemption 5 of the FOIA. These records consist of internal Executive Branch communications that reflect evaluations, advice, and recommendations to the ultimate Executive Branch decision-maker, which in this case was either the Review Panel or the Review Participants. The applicability of the pre-decisional and deliberative prongs of the deliberative process privilege to the threat assessments will be discussed in turn.

23. The threat assessments are “pre-decisional” records because they were prepared to assist the ultimate decision-maker in reaching a final disposition determination for each Guantanamo Bay detainee. The Task Force memoranda, including the threat assessments, were not the final position of the interagency review and accordingly did not contain binding policy or other guidance. These memoranda were created to advise and assist the Review Panel, and in some instances the Review Participants, in carrying out their responsibilities under the Order, and were drafted antecedent to any final decisions being made. In certain instances, the Review Panel diverged from the recommendations contained within the Task Force memoranda,

illustrating the inherently pre-decisional nature of these records. Thus, these records are preliminary memoranda and do not embody any final Executive Agency action.

24. Disclosure of this type of pre-decisional information would inhibit Executive Branch decision-making because it would chill frank discussion and collaboration among Executive Branch employees and senior-level decision-makers. If Executive Branch personnel who engage in the pre-decisional process of making recommendations on matters of national security discern that their preliminary assessments and recommendations, such as the candid evaluations of the potential threats to national security contained in the responsive records, could be released for public consumption, they may be more circumspect in expressing their views to final decision-makers. This potential loss of forthright analysis and review could ultimately impede the comprehensive discussion of issues that is necessary to reach a well-reasoned and fully vetted final decision in matters of national security.

25. The threat assessments are “deliberative” documents because they reflect evaluations made by the Task Force including express advice and recommendations regarding the proper disposition determination for each detainee. These records also reflect the Task Force’s determination of which evidence related to a particular detainee was germane to that detainee’s potential threat to the United States, and the Task Force’s qualitative assessment of the credibility and reliability of those selected pieces of evidence. The threat assessment portions of the memoranda were just one of many factors that the Task Force considered in developing its recommendation memoranda. Accordingly, the threat assessments reflect the internal deliberations of the Task Force on the appraisal of specific considerations in reaching a final recommendation with respect to each detainee.

26. DOJ has determined that the threat assessments are protected by the deliberative process privilege because they consist of the Task Force's internal recommendations to the Review Panel of senior-level officials who comprised the ultimate decision-makers for the Task Force's disposition determinations regarding each detainee. The Task Force prepared the threat assessments to succinctly summarize significant issues and present key background information regarding the potential national security threat of individual detainees in a concise format for ease of presentation and review for the Review Panel. In doing so, the Task Force distilled pertinent information underlying events relating to the national security threats posed by detainees as they attempted to anticipate questions that the Review Panel might have when reaching a final disposition determination. Throughout the review process, the Task Force assessed the universe of information compiled about each detainee, and selected the most prescient issues about which to brief the Review Panel. The decision to include or exclude certain information from analytical documents gathered in the course of the Task Force's official duties is itself an inherent part of the deliberative process. The Review Panel relied on these threat assessments to be fully informed on the substantive legal and policy issues pertaining to each detainee, and to appropriately weigh the pertinent factors while reaching a final decision regarding the proper disposition of each detainee.

27. Moreover, the threat assessments are portions of memoranda that are part of the exchange of ideas and suggestions that accompany all inter- and intra-agency decision-making, and reflect preliminary evaluations and assessments by the Task Force about issues on which they were asked to undertake analysis, make recommendations, and give advice. Release of sensitive, classified communications such as these would undermine the ability of Executive Branch employees to openly engage in candid analysis presented to senior level officials

regarding matters of national security, which is integral to the eventual development of well-reasoned guidance and policy. This lack of candor would seriously impair the Executive Branch's ability to foster the forthright, internal discussions necessary for efficient and proper decision-making. It is therefore crucial that the Task Force's candid views are protected from disclosure to ensure that Executive Branch decision-makers will receive similarly frank advice on such critical matters in the future.

28. The final decisions of the Review Panel, and in certain cases, the Review Participants, as reflected in the Guantanamo Review Dispositions chart dated January 22, 2010, do not in any way reference the threat assessments or the information compiled therein as bases for making the individual disposition determinations. I am not aware of any other official public statement by the Review Panel, nor the Review Participants, adopting the conclusions or rationale of any of the threat assessments. Thus, and for the aforementioned reasons, the threat assessments are protected in full by the deliberative process privilege encompassed by Exemption 5 of the FOIA.

Department of Justice Civil Division Equity

29. DOJ Civil Division has determined that certain threat assessments are protected in part by Exemptions 1, 6, and 7(C) of the FOIA.

30. Exemption 1 of the FOIA pertains to information that is properly classified in the interest of national security pursuant to Executive Order 13526. 5 U.S.C. § 552(b)(1). Certain threat assessments contain information derived from a Civil Division-created document that itself extracts, reproduces, or summarizes information that is currently and properly classified. See e.g., DoD Decl., ¶¶ 6-23; FBI Decl. ¶¶ 6-28; ODNI Decl. ¶¶ 12-22. The Civil Division-created document, and the portions of the threat assessments that rely upon that document, are

thus protected under Exemption 1 pursuant to Section 2.1 of Executive Order 13526, which governs derivative classifications. See 75 Fed. Reg. 707- 731, at 712.

31. Exemption 6 of the FOIA protects information about individuals when the disclosure of such information “would constitute a clearly unwarranted invasion of personal privacy.” 5 U.S.C. § 552(b)(6). Exemption 7(C) of the FOIA similarly exempts from disclosure records or information “compiled for law enforcement purposes” and protects personal privacy when disclosure “could reasonably be expected to constitute an unwarranted invasion of the personal privacy.” 5 U.S.C. § 552(b)(7)(C).<sup>5</sup> Certain information contained in the responsive records consists of the names of individuals who are not detainees or government employees. The disclosure of this information would constitute an unwarranted invasion of the personal privacy of those individuals, who are merely third-parties referenced in law enforcement files, and disclosure of this personal, third-party information would not shed light on the operations and activities of the government. See FBI Decl. ¶ 42. Accordingly, this information is being withheld pursuant to Exemptions 6 and 7(C). DOJ concurs with and hereby incorporates by reference the FBI Declaration, filed herewith, concluding that certain overlapping responsive records are exempt from disclosure in part pursuant to Exemptions 6 and 7(C) of the FOIA.

#### Segregation of Nonexempt Information

32. I have carefully reviewed the records at issue and determined that there is no non-exempt information in the threat assessments that could be segregated for release. The Task Force’s threat assessments do not contain purely factual background information concerning individual detainees; rather, those assessments reflect the Task Force’s opinion of whether a


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<sup>5</sup> The FBI Declaration establishes that portions of the information contained within the threat assessments were compiled for law enforcement purposes, thus satisfying the Exemption 7 threshold requirement. See FBI Decl. ¶¶ 33-34.



certain piece of intelligence reporting is relevant to an assessment of a specific individual's threat to the national security. The assessments also reflect the Task Force's candid opinions as to the reliability and credibility of the underlying reporting, including, in some instances, the Task Force's opinions as to why certain underlying reporting might be deemed non-credible. The threat assessments were created in the course of the Task Force's larger mission of recommending a proper disposition determination for each detainee. The disclosure of these assessments would thus undermine the core legal advice and analysis that the privilege is meant to protect, including the Task Force's deliberations on whether certain information should be included in a particular threat assessment and how much weight should be ascribed to a particular piece of underlying evidence. Moreover, the disclosure of these records would reveal internal, pre-decisional deliberations regarding whether to release, transfer, or prosecute each detainee. Thus, the records are covered in full by the deliberative process privilege pursuant to Exemption 5 of the FOIA and, accordingly, no non-exempt information can be reasonably segregated for disclosure. Additionally, these records are also partially exempt under FOIA Exemptions 1, 3, 6, 7(A), 7(B), 7(C), 7(D), and 7(E), as discussed above and in the referenced ODNI, FBI, DoD, and State declarations. Thus, these records are not appropriate for segregation as they are independently protected on those grounds.

I declare under penalty of perjury that the foregoing is true and correct.

  
\_\_\_\_\_  
Courtney J. O'Keefe

Executed this 27th day of March 2017.

# EXHIBIT A

**From:** [Hibbard, Douglas \(OIP\)](#)  
**To:** [Jones, Priscilla A \(OIP\)](#)  
**Subject:** FW: NYT FOIA request for 2009 EOTF assessments of Gitmo detainees  
**Date:** Thursday, June 16, 2016 11:55:15 AM

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Mail.

Received 6/16/16.

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**From:** Day, Laurie (OIP)  
**Sent:** Thursday, June 16, 2016 11:45 AM  
**To:** Hibbard, Douglas (OIP)  
**Subject:** FW: NYT FOIA request for 2009 EOTF assessments of Gitmo detainees

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**From:** Gleaves, Lani (NSD)  
**Sent:** Thursday, June 16, 2016 11:00 AM  
**To:** Day, Laurie (OIP)  
**Subject:** RE: NYT FOIA request for 2009 EOTF assessments of Gitmo detainees

Hi Laurie,

Just FYI, I am forwarding this referral to your office. Please see below.

Lani

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**From:** Tiernan, Kevin (NSD)  
**Sent:** Tuesday, June 14, 2016 4:00 PM  
**To:** Mallory, Arnetta (NSD); Gleaves, Lani (NSD)  
**Cc:** Bradley, Mark A (NSD)  
**Subject:** FW: NYT FOIA request for 2009 EOTF assessments of Gitmo detainees

This should be handled in the first instance by OIP. I don't think we have these records.

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**From:** NSDFOIA (NSD)  
**Sent:** Tuesday, June 14, 2016 9:36 AM  
**To:** Tiernan, Kevin (NSD); Gleaves, Lani (NSD)  
**Subject:** FW: NYT FOIA request for 2009 EOTF assessments of Gitmo detainees

**From:** Savage, Charlie [<mailto:savage@nytimes.com>]  
**Sent:** Monday, June 13, 2016 4:30 PM  
**To:** [dni-foia@dni.gov](mailto:dni-foia@dni.gov); NSDFOIA (NSD); David McCraw  
**Subject:** NYT FOIA request for 2009 EOTF assessments of Gitmo detainees

Dear ODNI and DOJ-NSD FOIA officers,

Under the Freedom of Information Act, I request access to (and declassification review of, as necessary) **the threat assessments of Guantanamo detainees produced by the six-agency**

executive order task force appointed in 2009 to review each remaining prisoner and led by Matt Olsen.

These individual assessments are referred to in the final report produced by the task force, dated Jan. 21, 2010.

<https://www.justice.gov/sites/default/files/ag/legacy/2010/06/02/guantanamo-review-final-report.pdf>

Please note that the recommendation for each detainee was already made public in 2013 via the FOIA process.

<https://www.documentcloud.org/documents/714599-savage-final-response.html>

To the extent that your review may conclude that an exemption could be cited to withhold these documents in full, I respectfully request that you consider not invoking that exemption in this instance, in line with President Obama's direction to have a presumption of openness in FOIA matters.

In this case, the military's prior threat assessments of Guantanamo detainees are already public as a result of the disclosures to WikiLeaks. Those assessments, while not officially disclosed, exist forever on the Internet. But many of those assessments are also deeply flawed, according to the EOTF's final report:

"In many instances, the Task Force largely agreed with prior threat assessments of the detainees and sometimes found additional information that further substantiated such assessments. In other instances, the Task Force found prior assessments to be overstated. Some assessments, for example, contained allegations that were not supported by the underlying source document upon which they relied. Other assessments contained conclusions that were stated categorically even though derived from uncorroborated statements or raw intelligence reporting of undetermined or questionable reliability. Conversely, in a few cases, the Task Force discovered reliable information indicating that a detainee posed a greater threat in some respects than prior assessments suggested."

To the extent the military assessments contain bad information, they are distorting the public debate as well as unjustly enhancing the stigma over the lives of former detainees. Releasing the corrective assessments would mitigate that harm. At the same time, releasing them would create little in the way of additional damage to whatever, if any, was already absorbed years ago when the DOD assessments leaked.

Thank you for your assistance. If you decide to grant this request, please feel free to email me the relevant documents, but if you need to mail a disc for internal procedural reasons, I am at

c/o The New York Times  
1627 I St NW  
7th Floor  
Washington, DC 20006

- Charlie Savage  
New York Times  
Phone: 202-862-0317  
Cell: 202-369-6653

# EXHIBIT B



**U.S. Department of Justice**  
Office of Information Policy  
Suite 11050  
1425 New York Avenue, NW  
Washington, DC 20530-0001

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Telephone: (202) 514-3642

July 12, 2016

Mr. Charles Savage  
New York Times  
1627 I Street NW  
Washington, DC 20006  
[savage@nytimes.com](mailto:savage@nytimes.com)

Re: DOJ-2016-003653 (DAG)  
DRH:ERH

Dear Mr. Savage:

This is to acknowledge receipt of your request dated June 13, 2016, and received in this Office on June 16, 2016, in which you requested the threat assessments of Guantanamo Bay detainees as produced by the Guantanamo Detainee Task Force. Your letter was originally directed to the National Security Division, who subsequently forwarded it to this Office for processing on behalf of the Office of the Deputy Attorney General.

The records you seek require a search in another Office, and so your request falls within "unusual circumstances." See 5 U.S.C. 552 § (a)(6)(B)(i)-(iii). Because of these unusual circumstances, we need to extend the time limit to respond to your request beyond the ten additional days provided by the statute. The time needed to complete our processing of your request will necessarily depend on the complexity of our records search and on the volume and complexity of any records located. For your information, this Office assigns incoming requests to one of three tracks: simple, complex, or expedited. Each request is then handled on a first-in, first-out basis in relation to other requests in the same track. Simple requests usually receive a response in about a month, whereas complex requests necessarily take longer. At this time, your request has been assigned to the complex track. In an effort to speed up our records search, you may wish to narrow the scope of your request to limit the number of potentially responsive records or agree to an alternative time frame for processing, should records be located; or you may wish to await the completion of our records search to discuss either of these options. You may also contact the Office of Government Information Services (OGIS) of the National Archives and Records Administration to inquire into the FOIA meditation services that they provide. OGIS can be contacted at the following:

Office of Government Information Services  
National Archives and Records Administration  
Room 2510  
8601 Adelphi Road  
College Park, MD 20740-6001

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Telephone: (202) 741-5770  
Facsimile: (202) 741-5769  
Toll-Free: (877) 684-6448  
Email: [ogis@nara.gov](mailto:ogis@nara.gov)

The FOIA provides for the assessment of search, duplication, and/or review fees in certain circumstances. See 5 U.S.C. § 552 (2014), amended by FOIA Improvement Act of 2016, Pub. L. No. 114-185, 130 Stat. 538. If we determine that your request may incur fees, we will contact you to discuss your fee estimate and your options for reducing or avoiding fees before any fees are assessed to you.

I regret the necessity of this delay, but I assure you that your request will be processed as soon as possible. If you have any questions or wish to discuss reformulation or an alternative time frame for the processing of your request, you may contact me by telephone at the above number or you may write to me at the Office of Information Policy, United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001. Lastly, you may contact our FOIA Public Liaison at the telephone number listed above to discuss any aspect of your request.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Hotchkiss", with a stylized flourish at the end.

Eric Hotchkiss  
Government Information Specialist

# EXHIBIT C





**U.S. Department of Justice**  
Office of Information Policy  
Suite 11050  
1425 New York Avenue, NW  
Washington, DC 20530-0001

Telephone: (202) 514-3642

February 27, 2017

Mr. Charlie Savage  
c/o David E. McCraw  
The New York Times Company  
620 Eighth Avenue, 18th Floor  
New York, NY 10018  
[mccrad@nytimes.com](mailto:mccrad@nytimes.com)

Re: DOJ-2016-003653  
S.D.N.Y. No. 16-cv-06120  
CJOK

Dear Mr. McCraw:

This responds to the Freedom of Information Act (FOIA) request submitted by Charlie Savage, dated June 13, 2016, in which Mr. Savage requested "the threat assessments of Guantanamo detainees produced by the six-agency executive order task force appointed in 2009 to review each remaining prisoner and led by Matt Olsen." Because Mr. Savage's request was originally directed to the National Security Division, it was not received by this Office until June 16, 2016.

Please be advised that a search has been conducted, and 1,824 pages of material were located that are responsive to your request. I have determined that all of this material should be withheld in full pursuant to Exemption 5 of the FOIA, 5 U.S.C. § 552(b)(5). Exemption 5 pertains to certain inter- and intra-agency communications protected by the deliberative process privilege.

Additionally, after consulting with other Executive Branch agencies that have an interest in the information contained within these records, I have determined that portions of this material should also be withheld pursuant to Exemptions 1, 3, 5, 6, 7(A), 7(B), 7(C), 7(D), and 7(E) of the FOIA, 5 U.S.C. § 552(b)(1), (b)(3), (b)(5), (b)(6), (b)(7)(A), (b)(7)(B), (b)(7)(C), (b)(7)(D), and (b)(7)(E). Exemption 1 pertains to information that is properly classified in the interest of national security pursuant to Executive Order 13526. Exemption 3 pertains to information exempted from release by statute. Exemption 5 pertains to certain inter- and intra-agency communications protected by the attorney work-product privilege. Exemption 6 pertains to information the release of which would constitute a clearly unwarranted invasion of the personal privacy of third parties. Exemption 7(A) pertains to records or information compiled for law enforcement purposes, the release of which could reasonably be expected to interfere with enforcement proceedings. Exemption 7(B) pertains to records or information compiled for law enforcement purposes, the release of which could reasonably be expected to interfere with the right of an individual to a fair trial or an impartial adjudication. Exemption 7(C) pertains to records or information compiled for law enforcement purposes, the release of which could reasonably be expected to constitute an unwarranted invasion of the personal privacy of third parties. Exemption 7(D) pertains to records or

-2-

information compiled for law enforcement purposes, the release of which would disclose the identities of confidential sources. Exemption 7(E) pertains to records or information compiled for law enforcement purposes, the release of which would disclose certain techniques or procedures for law enforcement investigations or prosecutions.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* 5 U.S.C. § 552(c) (2012). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

If you have any questions regarding this response, please contact Christopher Connolly of the U.S. Attorney's Office for the Southern District of New York at (212) 637-2761.

Sincerely,



Courtney J. O'Keefe  
Attorney-Advisor

# EXHIBIT D

## Presidential Documents

Executive Order 13492 of January 22, 2009

### Review and Disposition of Individuals Detained At the Guantánamo Bay Naval Base and Closure of Detention Facilities

By the authority vested in me as President by the Constitution and the laws of the United States of America, in order to effect the appropriate disposition of individuals currently detained by the Department of Defense at the Guantánamo Bay Naval Base (Guantánamo) and promptly to close detention facilities at Guantánamo, consistent with the national security and foreign policy interests of the United States and the interests of justice, I hereby order as follows:

**Section 1. Definitions.** As used in this order:

(a) “Common Article 3” means Article 3 of each of the Geneva Conventions.

(b) “Geneva Conventions” means:

(i) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, August 12, 1949 (6 UST 3114);

(ii) the Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, August 12, 1949 (6 UST 3217);

(iii) the Convention Relative to the Treatment of Prisoners of War, August 12, 1949 (6 UST 3316); and

(iv) the Convention Relative to the Protection of Civilian Persons in Time of War, August 12, 1949 (6 UST 3516).

(c) “Individuals currently detained at Guantánamo” and “individuals covered by this order” mean individuals currently detained by the Department of Defense in facilities at the Guantánamo Bay Naval Base whom the Department of Defense has ever determined to be, or treated as, enemy combatants.

**Sec. 2. Findings.**

(a) Over the past 7 years, approximately 800 individuals whom the Department of Defense has ever determined to be, or treated as, enemy combatants have been detained at Guantánamo. The Federal Government has moved more than 500 such detainees from Guantánamo, either by returning them to their home country or by releasing or transferring them to a third country. The Department of Defense has determined that a number of the individuals currently detained at Guantánamo are eligible for such transfer or release.

(b) Some individuals currently detained at Guantánamo have been there for more than 6 years, and most have been detained for at least 4 years. In view of the significant concerns raised by these detentions, both within the United States and internationally, prompt and appropriate disposition of the individuals currently detained at Guantánamo and closure of the facilities in which they are detained would further the national security and foreign policy interests of the United States and the interests of justice. Merely closing the facilities without promptly determining the appropriate disposition of the individuals detained would not adequately serve those interests. To the extent practicable, the prompt and appropriate disposition of the individuals detained at Guantánamo should precede the closure of the detention facilities at Guantánamo.

(c) The individuals currently detained at Guantánamo have the constitutional privilege of the writ of habeas corpus. Most of those individuals

have filed petitions for a writ of habeas corpus in Federal court challenging the lawfulness of their detention.

(d) It is in the interests of the United States that the executive branch undertake a prompt and thorough review of the factual and legal bases for the continued detention of all individuals currently held at Guantánamo, and of whether their continued detention is in the national security and foreign policy interests of the United States and in the interests of justice. The unusual circumstances associated with detentions at Guantánamo require a comprehensive interagency review.

(e) New diplomatic efforts may result in an appropriate disposition of a substantial number of individuals currently detained at Guantánamo.

(f) Some individuals currently detained at Guantánamo may have committed offenses for which they should be prosecuted. It is in the interests of the United States to review whether and how any such individuals can and should be prosecuted.

(g) It is in the interests of the United States that the executive branch conduct a prompt and thorough review of the circumstances of the individuals currently detained at Guantánamo who have been charged with offenses before military commissions pursuant to the Military Commissions Act of 2006, Public Law 109–366, as well as of the military commission process more generally.

**Sec. 3. Closure of Detention Facilities at Guantánamo.** The detention facilities at Guantánamo for individuals covered by this order shall be closed as soon as practicable, and no later than 1 year from the date of this order. If any individuals covered by this order remain in detention at Guantánamo at the time of closure of those detention facilities, they shall be returned to their home country, released, transferred to a third country, or transferred to another United States detention facility in a manner consistent with law and the national security and foreign policy interests of the United States.

**Sec. 4. Immediate Review of All Guantánamo Detentions.**

(a) **Scope and Timing of Review.** A review of the status of each individual currently detained at Guantánamo (Review) shall commence immediately.

(b) **Review Participants.** The Review shall be conducted with the full cooperation and participation of the following officials:

- (1) the Attorney General, who shall coordinate the Review;
- (2) the Secretary of Defense;
- (3) the Secretary of State;
- (4) the Secretary of Homeland Security;
- (5) the Director of National Intelligence;
- (6) the Chairman of the Joint Chiefs of Staff; and

(7) other officers or full-time or permanent part-time employees of the United States, including employees with intelligence, counterterrorism, military, and legal expertise, as determined by the Attorney General, with the concurrence of the head of the department or agency concerned.

(c) **Operation of Review.** The duties of the Review participants shall include the following:

(1) **Consolidation of Detainee Information.** The Attorney General shall, to the extent reasonably practicable, and in coordination with the other Review participants, assemble all information in the possession of the Federal Government that pertains to any individual currently detained at Guantánamo and that is relevant to determining the proper disposition of any such individual. All executive branch departments and agencies shall promptly comply with any request of the Attorney General to provide information in their possession or control pertaining to any such individual. The Attorney General may seek further information relevant to the Review from any source.

(2) **Determination of Transfer.** The Review shall determine, on a rolling basis and as promptly as possible with respect to the individuals currently detained at Guantánamo, whether it is possible to transfer or release the individuals consistent with the national security and foreign policy interests of the United States and, if so, whether and how the Secretary of Defense may effect their transfer or release. The Secretary of Defense, the Secretary of State, and, as appropriate, other Review participants shall work to effect promptly the release or transfer of all individuals for whom release or transfer is possible.

(3) **Determination of Prosecution.** In accordance with United States law, the cases of individuals detained at Guantánamo not approved for release or transfer shall be evaluated to determine whether the Federal Government should seek to prosecute the detained individuals for any offenses they may have committed, including whether it is feasible to prosecute such individuals before a court established pursuant to Article III of the United States Constitution, and the Review participants shall in turn take the necessary and appropriate steps based on such determinations.

(4) **Determination of Other Disposition.** With respect to any individuals currently detained at Guantánamo whose disposition is not achieved under paragraphs (2) or (3) of this subsection, the Review shall select lawful means, consistent with the national security and foreign policy interests of the United States and the interests of justice, for the disposition of such individuals. The appropriate authorities shall promptly implement such dispositions.

(5) **Consideration of Issues Relating to Transfer to the United States.** The Review shall identify and consider legal, logistical, and security issues relating to the potential transfer of individuals currently detained at Guantánamo to facilities within the United States, and the Review participants shall work with the Congress on any legislation that may be appropriate.

**Sec. 5. Diplomatic Efforts.** The Secretary of State shall expeditiously pursue and direct such negotiations and diplomatic efforts with foreign governments as are necessary and appropriate to implement this order.

**Sec. 6. Humane Standards of Confinement.** No individual currently detained at Guantánamo shall be held in the custody or under the effective control of any officer, employee, or other agent of the United States Government, or at a facility owned, operated, or controlled by a department or agency of the United States, except in conformity with all applicable laws governing the conditions of such confinement, including Common Article 3 of the Geneva Conventions. The Secretary of Defense shall immediately undertake a review of the conditions of detention at Guantánamo to ensure full compliance with this directive. Such review shall be completed within 30 days and any necessary corrections shall be implemented immediately thereafter.

**Sec. 7. Military Commissions.** The Secretary of Defense shall immediately take steps sufficient to ensure that during the pendency of the Review described in section 4 of this order, no charges are sworn, or referred to a military commission under the Military Commissions Act of 2006 and the Rules for Military Commissions, and that all proceedings of such military commissions to which charges have been referred but in which no judgment has been rendered, and all proceedings pending in the United States Court of Military Commission Review, are halted.

**Sec. 8. General Provisions.**

(a) Nothing in this order shall prejudice the authority of the Secretary of Defense to determine the disposition of any detainees not covered by this order.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

A handwritten signature in black ink, appearing to be Barack Obama's signature, consisting of a large 'B' followed by a circle and a horizontal line.

THE WHITE HOUSE,  
*January 22, 2009.*

# EXHIBIT E





# **FINAL REPORT**

## **GUANTANAMO REVIEW TASK FORCE**

**January 22, 2010**

**Department of Justice**

**Department of Defense**

**Department of State**

**Department of Homeland Security**

**Office of the Director  
of National Intelligence**

**Joint Chiefs of Staff**

## EXECUTIVE SUMMARY

On January 22, 2009, the President issued Executive Order 13492, calling for a prompt and comprehensive interagency review of the status of all individuals currently detained at the Guantanamo Bay Naval Base and requiring the closure of the detention facilities there. The Executive Order was based on the finding that the appropriate disposition of all individuals detained at Guantanamo would further the national security and foreign policy interests of the United States and the interests of justice.

One year after the issuance of the Executive Order, the review ordered by the President is now complete. After evaluating all of the detainees, the review participants have decided on the proper disposition—transfer, prosecution, or continued detention—of all 240 detainees subject to the review.

Each of these decisions was reached by the unanimous agreement of the agencies responsible for the review: the Department of Justice, Department of Defense, Department of State, Department of Homeland Security, Office of the Director of National Intelligence, and Joint Chiefs of Staff.

### Review Process

To implement the President's order, the Attorney General, as the coordinator of the review, established the Guantanamo Review Task Force and a senior-level Review Panel. The Task Force was responsible for assembling and examining relevant information on the Guantanamo detainees and making recommendations on their proper dispositions. The Review Panel, consisting of officials with delegated authority from their respective agencies to decide the disposition of each detainee, reviewed the Task Force's recommendations and made disposition decisions on a rolling basis. Where the Review Panel did not reach consensus, or where higher-level review was appropriate, the agency heads ("Principals") named in the Executive Order determined the proper disposition of the detainee.

Key features of the review process included:

- **Comprehensive Interagency Review.** The Task Force consisted of more than 60 career professionals, including intelligence analysts, law enforcement agents, and attorneys, drawn from the Department of Justice, Department of Defense, Department of State, Department of Homeland Security, Central Intelligence Agency, Federal Bureau of Investigation, and other agencies within the intelligence community.
- **Rigorous Examination of Information.** The Task Force assembled large volumes of information from across the government relevant to determining the proper disposition of each detainee. Task Force members examined this information critically, giving careful consideration to the threat posed by the detainee, the reliability of the underlying information, and the interests of national security.

- **Unanimous Decision-Making by Senior Officials.** Based on the Task Force’s evaluations and recommendations, senior officials representing each agency responsible for the review reached unanimous determinations on the appropriate disposition for all detainees. In the large majority of cases, the Review Panel was able to reach a consensus. Where the Review Panel was not able to reach a unanimous decision—or when additional review was appropriate—the Principals met to determine the proper disposition.

### **Results of the Review**

The decisions reached on the 240 detainees subject to the review are as follows:

- **126 detainees** were approved for transfer. To date, 44 of these detainees have been transferred from Guantanamo to countries outside the United States.
- **44 detainees** over the course of the review were referred for prosecution either in federal court or a military commission, and **36 of these detainees** remain the subject of active cases or investigations. The Attorney General has announced that the government will pursue prosecutions against six of these detainees in federal court and will pursue prosecutions against six others in military commissions.
- **48 detainees** were determined to be too dangerous to transfer but not feasible for prosecution. They will remain in detention pursuant to the government’s authority under the Authorization for Use of Military Force passed by Congress in response to the attacks of September 11, 2001. Detainees may challenge the legality of their detention in federal court and will periodically receive further review within the Executive Branch.
- **30 detainees** from Yemen were designated for “conditional” detention based on the current security environment in that country. They are not approved for repatriation to Yemen at this time, but may be transferred to third countries, or repatriated to Yemen in the future if the current moratorium on transfers to Yemen is lifted and other security conditions are met.

### **Looking Ahead**

With the completion of the review, an essential component of the effort to close the Guantanamo detention facilities has been accomplished. Beyond the review, additional work remains to be done to implement the review decisions and to resolve other issues relating to detainees. The Task Force has ensured that its analyses of the detainees and the information collected in the course of the review are properly preserved to assist in the resolution of these issues going forward.

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## **I. Introduction**

An essential component of the President's order calling for the closure of the detention facilities at the Guantanamo Bay Naval Base was the initiation of a new and rigorous interagency review of all individuals detained there. The purpose of the review was to collect and examine information from across the government to determine which detainees the United States should transfer or release from custody, prosecute, or otherwise lawfully detain.

This review is now complete. After carefully considering each case, the agencies responsible for the review—the Department of Justice, Department of Defense, Department of State, Department of Homeland Security, Office of the Director of National Intelligence, and Joint Chiefs of Staff—have unanimously agreed on the proper disposition of all 240 detainees subject to the review. While there remain other steps outside the scope of the review that must be taken before the detention facilities at Guantanamo can be closed, the completion of the review fulfills a central element of the President's order.

This report describes the process by which the review was conducted over the past year, the decisions resulting from the review, and the progress made toward implementing those decisions.

## **II. Background**

Following the terrorist attacks of September 11, 2001, the United States was faced with the question of what to do with individuals captured in connection with military operations in Afghanistan or in other counterterrorism operations overseas. Starting in January 2002, the military began transferring a number of these individuals to the detention facilities at Guantanamo. By the end of 2002, 632 detainees had been brought to Guantanamo. In 2003, 117 additional detainees were brought to the base, with 10 more detainees added in 2004, 14 detainees in 2006, five detainees in 2007, and one detainee in 2008. Since 2002, a total of 779 individuals have been detained at Guantanamo in connection with the war against al-Qaida, the Taliban, and associated forces.

From 2002 through 2008, most of the individuals detained at Guantanamo were transferred or released from U.S. custody, with the vast majority being repatriated to their home countries and others resettled in third countries willing to receive them. Of the 779 individuals detained at Guantanamo, approximately 530—almost 70 percent—were transferred or released from U.S. custody prior to 2009. The countries to which these detainees were transferred include Afghanistan, Albania, Algeria, Australia, Bahrain, Bangladesh, Belgium, Bosnia, Denmark, Egypt, France, Germany, Iran, Iraq, Jordan, Kazakhstan, Kuwait, Libya, Maldives, Mauritania, Morocco, Pakistan, Qatar, Russia, Saudi Arabia, Somalia (Somaliland), Spain, Sudan, Sweden, Tajikistan, Tunisia, Turkey, Uganda, the United Arab Emirates, the United Kingdom, and Yemen.

By January 20, 2009, the population of detainees at Guantanamo had been reduced to 242. Of the 242 remaining detainees, 59 had been approved for transfer by the prior administration and were awaiting implementation of their transfers.

### **III. The President's Executive Order**

On January 22, 2009, the President issued an Executive Order requiring the closure of the detention facilities at Guantanamo within one year. Noting the length of the detentions and the significant concerns they had raised both within the United States and internationally, the President determined that the "prompt and appropriate disposition of the individuals currently detained at Guantanamo and closure of the facilities in which they are detained would further the national security and foreign policy interests of the United States and the interests of justice."

Accordingly, the President ordered the Executive Branch to conduct a prompt and comprehensive interagency review of the factual and legal bases for the continued detention of all individuals remaining at Guantanamo. The President ordered that the review be coordinated by the Attorney General and conducted with the full cooperation and participation of the Secretary of Defense, Secretary of State, Secretary of Homeland Security, Director of National Intelligence, and Chairman of the Joint Chiefs of Staff.

The first task given to the review participants under the Executive Order was to assemble, to the extent reasonably practicable, all information in the possession of the federal government pertaining to any individual then detained at Guantanamo and relevant to determining his proper disposition.

The Executive Order then set forth the following framework for the review participants to follow in determining the disposition of each detainee:

- First, on a rolling basis and as promptly as possible, determine whether it is possible to transfer or release the detainee consistent with the national security and foreign policy interests of the United States and, if so, whether and how the Secretary of Defense may effect the detainee's transfer or release;
- Second, with respect to any detainee not approved for transfer or release, determine whether the federal government should seek to prosecute the detainee for any offenses he may have committed, including whether it is feasible to prosecute such individual in a court established pursuant to Article III of the United States Constitution (*i.e.*, federal court); and
- Third, with respect to any detainee whose disposition is not achieved through transfer, release, or prosecution, select other lawful means, consistent with the national security and foreign policy interests of the United States and the interests of justice, for the disposition of the detainee.

The Executive Order further directed that the Secretary of Defense, the Secretary of State, and other review participants work to effect promptly the release or transfer of all individuals for whom release or transfer is possible, and that the Secretary of State expeditiously pursue and direct such negotiations and diplomatic efforts with foreign governments as are necessary and appropriate to implement the order.

Finally, the Executive Order required that any individuals who remained in detention at Guantanamo at the time of the closure of the detention facilities be returned to their home country, released, transferred to a third country, or transferred to another United States detention facility in a manner consistent with law and the national security and foreign policy interests of the United States.

#### **IV. Implementing the Executive Order: The Guantanamo Review Task Force**

##### **A. Establishment of the Task Force**

To implement the Executive Order, the Attorney General established the Guantanamo Review Task Force and appointed an Executive Director of the Task Force on February 20, 2009. The Task Force was charged with assembling and reviewing relevant information on the Guantanamo detainees and making recommendations to senior-level officials on the proper disposition of each detainee pursuant to the framework set forth in the Executive Order. To ensure that the expertise and perspectives of each participating agency were brought to bear on the review process, the Task Force was established as an interagency entity. Further, to maximize collaboration and exchange of information among Task Force members, all Task Force staff were located together in a secure facility, on a single floor devoted to Task Force work, and connected electronically through a stand-alone classified network.

##### **B. Task Force Structure**

With the assistance of the participating agencies, the Task Force assembled a staff of over 60 career professionals, drawn from the Department of Justice, Department of Defense, Department of State, Department of Homeland Security, Federal Bureau of Investigation, Central Intelligence Agency, and National Counterterrorism Center. Included in this wide range of representatives were senior military officers, federal prosecutors, FBI agents, intelligence analysts and officers, military prosecutors and investigators, national security lawyers, civil litigators, paralegals, and administrative assistants. During their tenure at the Task Force, these staff members worked full-time on the Task Force review.

The Task Force staff was initially organized into two review teams. The transfer team was responsible for evaluating whether detainees could be transferred or released consistent with the national security and foreign policy interests of the United States.<sup>1</sup>

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<sup>1</sup> The term “release” is used to mean release from confinement without the need for continuing security measures in the receiving country, while the term “transfer” is used to mean release from confinement subject to appropriate security measures.

The team primarily evaluated the degree of threat posed by the detainee to U.S. national security, whether the threat could be mitigated through appropriate security measures, and the potential destination countries where it appeared possible to safely transfer the detainee. The transfer team was composed of representatives from each agency listed in the Executive Order.

The prosecution team was responsible for recommending whether the government should seek to prosecute certain detainees in either federal court or the military commission system. The prosecution team was staffed predominantly by experienced federal prosecutors, investigative agents, and criminal appellate specialists from the Department of Justice,<sup>2</sup> as well as military commission prosecutors and investigative agents from the Department of Defense.

The work of the transfer and prosecution teams often overlapped, and the two teams worked in close coordination over the course of the review. As described below, after an initial review of all the detainees, the transfer and prosecution teams merged to conduct a further review of detainees whose cases had been deferred during the initial review.

The interagency makeup of the review teams was designed to ensure that all relevant agency viewpoints—including military, intelligence, homeland security, diplomatic, and law enforcement—were considered in the review process. Thus, proposed recommendations for transfer or continued detention were drafted, reviewed, and vigorously discussed in group deliberations by representatives of each of the participating agencies. After these extensive discussions on each detainee, any dissenting views of the agency representatives were noted in the recommendations or otherwise made known to the Review Panel.

### **C. Guantanamo Review Panel**

The Task Force's recommendations, which contained detailed classified assessments of each detainee, were submitted on a rolling basis to the interagency Guantanamo Review Panel. The Review Panel was established in February 2009 along with the Task Force and was composed of senior-level officials from each of the agencies identified in the Executive Order.<sup>3</sup> Review Panel members were delegated authority from their respective agency heads ("Principals") to decide the disposition of each detainee. Review Panel members were also responsible for ensuring that their respective agencies made relevant information in their possession available to the Task Force and

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<sup>2</sup> Specifically, federal prosecutors on the Task Force were drawn from United States Attorneys' Offices in the Southern District of New York, Eastern District of New York, Western District of New York, District of Columbia, Eastern District of Virginia, Central District of California, Northern District of California, and District of Maine, and from the Counterterrorism Section of the National Security Division in the Department of Justice.

<sup>3</sup> Senior officials from the Central Intelligence Agency and Federal Bureau of Investigation also regularly attended the Review Panel meetings to further inform the decision-making process.



provided the Task Force with personnel and other resources necessary for the Task Force to complete its review within the one-year time frame mandated by the President.

Beginning in March 2009, the Review Panel met on a weekly basis to consider the recommendations of the Task Force. The Review Panel made disposition decisions only by unanimous agreement of the agencies identified in the Executive Order. Thus, each of the participating agencies had an equal voice in disposition decisions, and no decisions were made by the Review Panel over the objection of any agency. In the large majority of cases, the Review Panel was able to achieve consensus and reach decisions regarding the detainees considered. When Review Panel members did not reach consensus, or when higher-level review was appropriate, the cases were referred to the Principals for a decision. All of the cases referred to the Principals also ultimately garnered the unanimous agreement of the participating agencies.

Once a final decision was made regarding the disposition of a particular detainee, the decision was passed to the appropriate agencies for implementation. If a detainee was approved for transfer to a foreign country as a result of the review, the Department of State and Department of Defense worked together to make appropriate arrangements to effect the transfer in a manner consistent with the national security and foreign policy interests of the United States, including U.S. policies concerning humane treatment. If a decision was made by the Review Panel for prosecution, the case was referred to the Department of Justice for further investigation and review under a joint protocol established by the Department of Justice and Department of Defense to determine whether to pursue prosecution of the case in federal court or a military commission. The Review Panel was regularly updated on the implementation of transfer decisions and prosecution referrals, as well as any issues arising out of the implementation of these decisions requiring further interagency consideration.

#### **D. Task Force Information Collection**

In accordance with the Executive Order, the Task Force's initial responsibility was to collect all government information, to the extent reasonably practicable, relevant to determining the proper disposition of each detainee. The government did not have a preexisting, consolidated repository of such information. Rather, each federal agency stored information concerning Guantanamo detainees in its own systems, consistent with its particular mission and operating protocols.

Accordingly, soon after it was formed, the Task Force initiated an effort to collect detainee information and make it available for review by Task Force members. As a result of this complex effort, the Task Force consolidated a large volume of information from the Department of Defense, Central Intelligence Agency, Federal Bureau of Investigation, Department of Justice, National Security Agency, National Counterterrorism Center, Department of State, and Department of Homeland Security.

The documents assembled by the Task Force include summaries of biographic and capture information; interrogation reports from custodial interviews of the detainees;

records of Department of Defense administrative proceedings involving the detainees, *i.e.*, Combatant Status Review Tribunals and Administrative Review Board proceedings; the results of name traces run for detainees in certain intelligence databases maintained by the Central Intelligence Agency and National Security Agency; the results of name traces run for detainees in law enforcement databases maintained by the Federal Bureau of Investigation; investigative records maintained by the Office of Military Commissions–Prosecution (“OMC”) and Criminal Investigative Task Force within the Department of Defense; records assembled by the Department of Justice for purposes of defending habeas litigation brought by detainees to challenge their detention; recidivism assessments concerning former detainees; finished intelligence products on the detainee population and on general topics of interest to the Task Force’s work; and information concerning potential destination countries for detainees approved for transfer or release. The Task Force also accepted written submissions made on behalf of individual detainees by their counsel or other representatives.

Additionally, the Task Force had access to a variety of external networks containing additional information on the detainees, including documentary and physical evidence recovered through counterterrorism operations, and records concerning the behavior, disciplinary infractions, and physical and mental health of the detainees during detention. Over the course of the review, the Task Force also received briefings from the intelligence community on a number of topics relevant to the review.

The review of all this information was conducted in a classified environment using secure systems.

### **E. Review Phases**

Following an initial period to stand up the Task Force and collect detainee information, the Task Force began to review detainees on March 5, 2009. The review was conducted in two phases. During the first phase, the Task Force reviewed all 240 detainees subject to the review.<sup>4</sup> In accordance with the framework set forth in the Executive Order, the purpose of the first phase of the review was to identify those detainees who could be transferred or released consistent with the national security and foreign policy interests of the United States, those detainees as to whom prosecution appeared feasible, and those detainees who required further evaluation before a decision could be made on their appropriate disposition.

The purpose of the second phase of the review was to reevaluate those detainees who had been deferred during the first phase. Each detainee reviewed in the second phase was considered for transfer, prosecution, or—in the event that neither of these dispositions was deemed appropriate—continued detention pursuant to the government’s

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<sup>4</sup> Although there were 242 detainees at Guantanamo when the Executive Order was issued, one detainee had already been convicted and sentenced to life in the military commission system in 2008, and another detainee committed suicide in June 2009. Thus, there were 240 detainees whose dispositions were reviewed under the Executive Order.

authority under the Authorization for Use of Military Force (“AUMF”) passed by Congress in response to the attacks of September 11, 2001.

## **V. Detainee Review Guidelines**

In conducting its reviews, the Task Force followed detainee review guidelines (“Guidelines”) developed specifically for the Executive Order review and approved by the Review Panel. The Guidelines set forth standards to apply in considering detainees for transfer, prosecution, or continued detention pursuant to the government’s authority under the AUMF.

### **A. Transfer Guidelines**

The Guidelines addressed three types of evaluations relevant to determining whether a detainee should be recommended for transfer or release.

The first evaluation required by the Guidelines was a threat evaluation. The Guidelines provided that a detainee should be deemed eligible for transfer if any threat he poses could be sufficiently mitigated through feasible and appropriate security measures.<sup>5</sup> The Guidelines set forth a non-exclusive list of factors to be considered in evaluating the threat posed by a detainee. In applying those factors, the Task Force was instructed to consider the totality of available information regarding the detainee, and to give careful consideration to the credibility and reliability of the available information.

The second evaluation required by the Guidelines was an evaluation of potential destination (*i.e.*, receiving) countries. The Guidelines left the Task Force with discretion whether to recommend a detainee for transfer only to specified countries or under specified conditions. As with the threat evaluation, the Guidelines provided a non-exclusive set of factors by which to evaluate potential receiving countries.

The third evaluation required by the Guidelines was a legal evaluation to ensure that any detainee falling outside the government’s lawful detention authority under the AUMF was recommended for transfer or release.

### **B. Prosecution Guidelines**

The Guidelines also required cases to be evaluated by Task Force prosecutors to determine whether a federal court or military commission prosecution should be recommended for any offenses the detainees may have committed.

For the evaluation of whether a detainee should be prosecuted in federal court, the Guidelines set forth standards used by federal prosecutors across the country to determine

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<sup>5</sup> The Guidelines further provided that a detainee should be deemed eligible for release if he does not pose an identifiable threat to the national security of the United States. Other than the 17 Chinese Uighur detainees, who were approved for “transfer or release,” no detainees were approved for “release” during the course of the review.

whether to charge a case, as set forth in the *United States Attorneys' Manual*. Consistent with these standards, the Guidelines provided that a case should be recommended for prosecution if the detainee's conduct constitutes a federal offense and the potentially available admissible evidence will probably be sufficient to obtain and sustain a conviction—unless prosecution should be declined because no substantial federal interest would be served by prosecution. Key factors in making this determination include the nature and seriousness of the offense; the detainee's culpability in connection with the offense; the detainee's willingness to cooperate in the investigation or prosecution of others; and the probable sentence or other consequences if the detainee is convicted.

For the evaluation of whether a detainee should be prosecuted in a military commission, Task Force prosecutors examined the potentially available admissible evidence and consulted closely with OMC to determine the feasibility of prosecution.

Recognizing the unique nature of these cases, the Guidelines provided that other factors were also significant in determining whether to recommend prosecution, including the need to protect classified information, such as intelligence sources and methods.

### C. Detention Guidelines

In accordance with the Executive Order, the Guidelines provided that every effort should be made to ensure that all detainees who could be recommended for transfer, release, or prosecution consistent with national security and foreign policy interests and the interests of justice were recommended for such dispositions. Thus, the Guidelines provided that a detainee should be considered eligible for continued detention under the AUMF only if (1) the detainee poses a national security threat that cannot be sufficiently mitigated through feasible and appropriate security measures; (2) prosecution of the detainee by the federal government is not feasible in any forum; and (3) continued detention without criminal charges is lawful.

The Guidelines required the Task Force to consult with the Department of Justice in conducting a legal evaluation for each detainee considered for continued detention. This legal evaluation addressed both the legal basis for holding the detainee under the AUMF and the government's case for defending the detention in any habeas litigation.<sup>6</sup>

As the Supreme Court has held, inherent within the authorization of the AUMF to “use all necessary and appropriate force” is the power to detain any individuals who fall within the scope of the statute.<sup>7</sup> As the Court observed, “by universal agreement and

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<sup>6</sup> The AUMF authorizes the President to “use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future attacks of international terrorism against the United States by such nations, organizations or persons.” AUMF § 2(a).

<sup>7</sup> See *Hamdi v. Rumsfeld*, 542 U.S. 507, 519 (2004) (plurality opinion); *id.* at 587 (Thomas, J.) (dissenting).

practice,” the power to wage war necessarily includes the authority to capture and detain combatants in order to prevent them from “returning to the field of battle and taking up arms once again.”<sup>8</sup> The scope of the AUMF’s detention authority extends to those persons who “planned, authorized or committed or aided” the September 11 attacks, “harbored those responsible for those attacks,” or “were part of, or substantially supported, Taliban or al Qaeda forces or associated forces that are engaged in hostilities against the United States or its coalition partners.”<sup>9</sup> Accordingly, only detainees who satisfied this standard could be designated for continued detention.

#### **D. Review of Information**

Consistent with the Guidelines’ requirement that the Task Force undertake a fresh and comprehensive evaluation of detainee information, the Task Force sought to make independent evaluations of the facts. In many instances, the Task Force largely agreed with prior threat assessments of the detainees and sometimes found additional information that further substantiated such assessments. In other instances, the Task Force found prior assessments to be overstated. Some assessments, for example, contained allegations that were not supported by the underlying source document upon which they relied. Other assessments contained conclusions that were stated categorically even though derived from uncorroborated statements or raw intelligence reporting of undetermined or questionable reliability. Conversely, in a few cases, the Task Force discovered reliable information indicating that a detainee posed a greater threat in some respects than prior assessments suggested.

Even after careful examination of the intelligence, however, it was not always possible to draw definitive conclusions regarding a detainee’s past conduct. Many of the detainees were captured in active zones of combat and were not previously the targets of investigation by U.S. law enforcement authorities or the intelligence community. Much of what is known about such detainees comes from their own statements or statements made by other detainees during custodial debriefings. The Task Force sought to ensure that the Review Panel and Principals were apprised in their decision-making of any limitations of the available information.

### **VI. Results of the Review**

#### **A. Overview of Decisions**

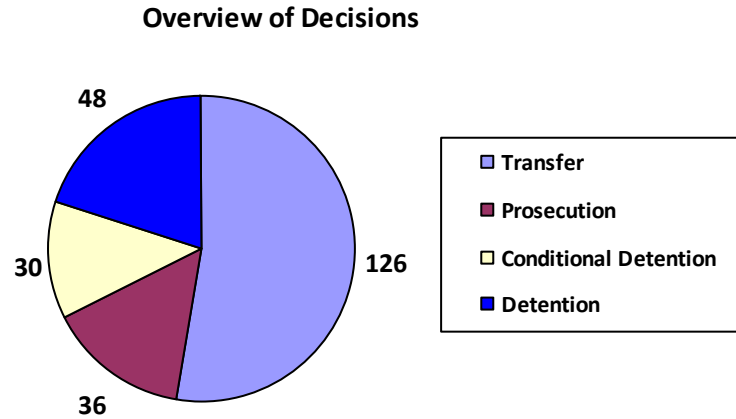
By the one-year mark of January 22, 2010, the review participants reached decisions on the appropriate disposition of all 240 detainees subject to the Executive Order. In sum, 126 detainees were approved for transfer; 36 detainees were referred for

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<sup>8</sup> *Id.* at 518; *see also id.* at 587 (Thomas, J.) (dissenting) (same).

<sup>9</sup> *See Gov’t Filing, In re: Guantanamo Bay Detainee Litigation*, Misc. No. 08-442 (D.D.C. March 13, 2009). The United States Court of Appeals for the District of Columbia recently affirmed that Guantanamo detainees who meet this standard are detainable. *See also Al-Bihani v. Obama*, --- F.3d ---, 2010 WL 10411 at \*3 (D.C. Cir. Jan. 5, 2010).

prosecution;<sup>10</sup> 48 detainees were approved for continued detention under the AUMF; and 30 detainees from Yemen were approved for “conditional” detention based on present security conditions in Yemen.



After careful deliberation, all of these decisions were reached by unanimous agreement of senior officials from each agency responsible for the review. Thus, each decision carries the approval of the Department of Justice, Department of Defense, Department of State, Department of Homeland Security, Office of the Director of National Intelligence, and Joint Chiefs of Staff. A more detailed breakdown of the decisions follows.

#### Detainees Approved for Transfer

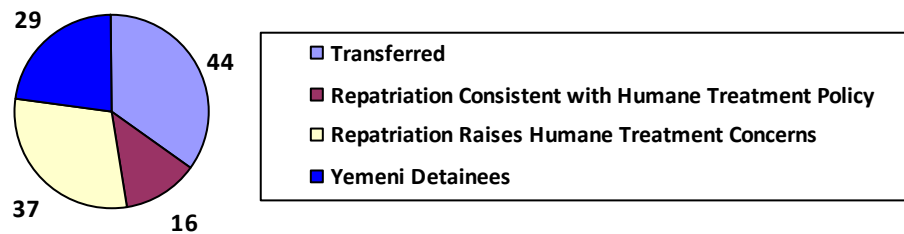
- 126 detainees were unanimously approved for transfer subject to appropriate security measures.
  - 63 of the 126 detainees either had been cleared for transfer by the prior administration, ordered released by a federal district court, or both.
  - 44 of the 126 detainees have been transferred to date—24 to their home countries, 18 to third countries for resettlement, and two to Italy for prosecution.
  - 82 of the 126 detainees remain at Guantanamo. Of these detainees:
    - 16 may be repatriated to their home countries (other than Yemen) consistent with U.S. policies on humane treatment. The State Department and Department of Defense are working with these countries concerning the security conditions and timing of the

<sup>10</sup> As explained below, 44 cases were initially referred for prosecution; 36 of those cases remain the subject of active referrals.

transfers. Some of these detainees have obtained injunctions that presently bar their repatriation and cannot be repatriated until these injunctions are lifted; litigation over the injunctions is ongoing.

- 37 cannot be repatriated at this time due to humane treatment or related concerns associated with their home countries (other than Yemen). The State Department is seeking to resettle these detainees in third countries. (A small number of these detainees may be transferred to third countries for prosecution rather than resettlement.)
- 29 are from Yemen. In light of the moratorium on transfers of Guantanamo detainees to Yemen announced by the President on January 5, 2010, these detainees cannot be transferred to Yemen at this time. In the meantime, these detainees are eligible to be transferred to third countries capable of imposing appropriate security measures.

**Detainees Approved for Transfer**

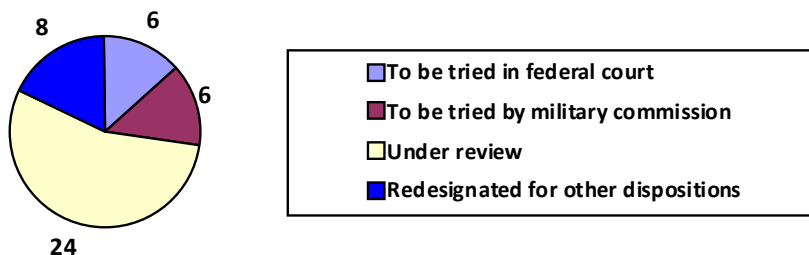


#### Detainees Referred for Prosecution

- Initially, 44 detainees were referred for prosecution. As a result of further evaluation of these cases (detailed below), there are now 36 detainees who remain the subject of active cases or investigations.
  - 1 detainee (Ahmed Ghailani) has been transferred to the Southern District of New York and will be tried for his alleged role in the 1998 bombings of the U.S. embassies in Kenya and Tanzania.
  - 5 detainees will be tried in the Southern District of New York, for their alleged roles in the September 11 attacks, as announced by the Attorney General.
  - 6 detainees will be tried for offenses under the laws of war in a reformed military commission system, as announced by the Attorney General.
  - 24 detainees remain under review pursuant to the joint Department of Justice-Department of Defense protocol. No final determination has yet been made as to whether or in what forum these 24 detainees will be charged.

- 8 other detainees were initially referred for prosecution but subsequently designated for other dispositions.
  - 1 detainee was transferred pursuant to a court order in his habeas case.
  - 7 detainees were referred back to the review participants after prosecution was deemed not feasible upon further evaluation (6 were subsequently approved for continued detention under the AUMF, and 1 was approved for transfer).

**Detainees Referred for Prosecution**



Detainees Approved for Detention

- 48 detainees were unanimously approved for continued detention under the AUMF based on a finding that they pose a national security threat that could not be mitigated sufficiently at this time if they were to be transferred from U.S. custody.
  - The Task Force concluded as to all of these detainees that prosecution is not feasible at this time in either federal court or the military commission system.
  - At the same time, the Task Force concluded that there is a lawful basis for continuing to detain these detainees under the AUMF.

Detainees Approved for Conditional Detention

- 30 detainees from Yemen were unanimously approved for “conditional” detention based on current security conditions in Yemen.
  - After carefully considering the intelligence concerning the security situation in Yemen, and reviewing each detainee on a case-by-case basis, the review participants selected a group of 30 Yemeni detainees who pose a lower threat than the 48 detainees designated for continued detention under the AUMF, but who should not be among the first groups of transfers to Yemen even if the current moratorium on such transfers is lifted.
  - These 30 detainees were approved for “conditional” detention, meaning that they may be transferred if one of the following conditions is satisfied: (1) the



security situation improves in Yemen; (2) an appropriate rehabilitation program becomes available; or (3) an appropriate third-country resettlement option becomes available. Should any of these conditions be satisfied, however, the 29 Yemeni detainees approved for transfer would receive priority for any transfer options over the 30 Yemeni detainees approved for conditional detention.

## **B. Overview of the Guantanamo Detainee Population**

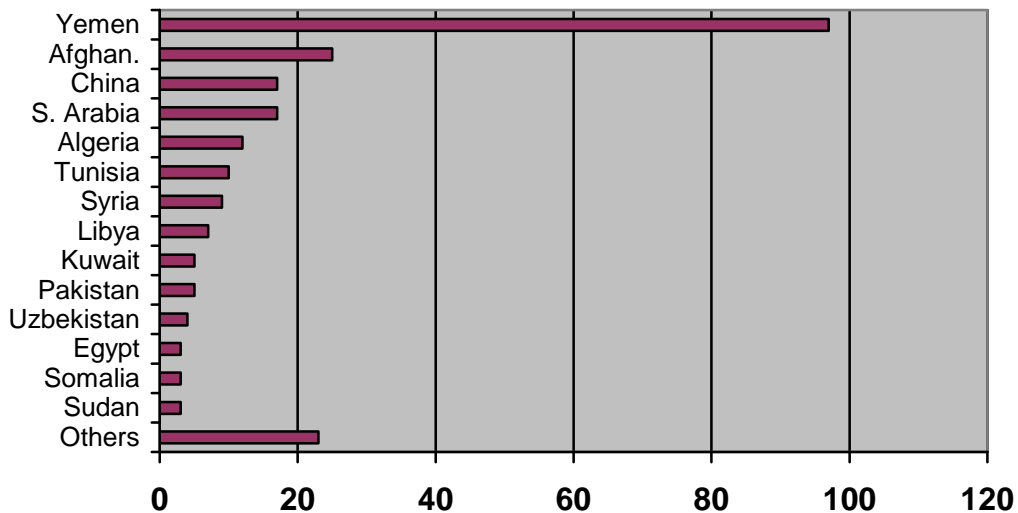
The following section provides an overview of the 240 Guantanamo detainees reviewed under the Executive Order, including their threat characteristics and more general background information, including country of origin, point of capture, and date of arrival at Guantanamo.

*Threat Characteristics.* As reflected in the decisions made in the review, there is a substantial degree of variation among the Guantanamo detainees from a security perspective. Although not all detainees can be neatly characterized, the following groupings provide a rough overview of the recurring threat profiles seen in the population.

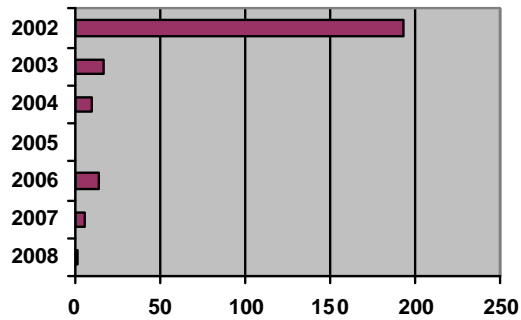
- *Leaders, operatives, and facilitators involved in terrorist plots against U.S. targets.* At the high end of the threat spectrum are leaders, planners, operatives, and facilitators within al-Qaida or associated groups who are directly implicated in terrorist plots against U.S. interests. Among the most notorious examples in this group are Khalid Sheikh Mohammed, the alleged mastermind of the September 11 attacks; Ramzi bin al-Shibh, the alleged principal coordinator of the September 11 attacks; Abd al-Rahim al-Nashiri, the alleged mastermind of the attack on the U.S.S. *Cole*; Abu Faraj al-Libi, who allegedly succeeded Khalid Sheikh Mohammed as al-Qaida's chief planner of terrorist operations; Hambali, the alleged leader of an al-Qaida affiliate in Indonesia who directed numerous attacks against Western targets in Southeast Asia; and Ahmed Ghailani, an alleged key participant in the 1998 bombings of the U.S. embassies in Kenya and Tanzania. Roughly 10 percent of the detainees subject to the review appear to have played a direct role in plotting, executing, or facilitating such attacks.
- *Others with significant organizational roles within al-Qaida or associated terrorist organizations.* Other detainees played significant organizational roles within al-Qaida or associated terrorist organizations, even if they may not have been directly involved in terrorist plots against U.S. targets. This group includes, for example, individuals responsible for overseeing or providing logistical support to al-Qaida's training operations in Afghanistan; facilitators who helped move money and personnel for al-Qaida; a cadre of Usama bin Laden's bodyguards, who held a unique position of trust within al-Qaida; and well-trained operatives who were being groomed by al-Qaida leaders for future terrorist operations. Roughly 20 percent of the detainees subject to the review fall within this category.

- *Taliban leaders and members of anti-Coalition militia groups.* The detainee population also includes a small number of Afghan detainees who occupied significant positions within the Taliban regime, and a small number of other Afghan detainees who were involved in local insurgent networks in Afghanistan implicated in attacks on Coalition forces. Less than 10 percent of the detainees subject to the review fall within this category.
- *Low-level foreign fighters.* A majority of the detainees reviewed appear to have been foreign fighters with varying degrees of connection to al-Qaida, the Taliban, or associated groups, but who lacked a significant leadership or other specialized role. These detainees were typically captured in combat zones during the early stages of U.S. military operations in Afghanistan, often by Northern Alliance troops or other allied forces, without being specifically targeted for capture by (or even known to) the U.S. military in advance. Many were relatively recent recruits to training camps in Afghanistan run by al-Qaida or other groups, where they received limited weapons training, but do not appear to have been among those selected for more advanced training geared toward terrorist operations abroad.
- *Miscellaneous others.* The remaining detainees—roughly 5 percent—do not fit into any of the above categories.

**Country of Origin.** The Guantanamo detainees reviewed included individuals from a number of different countries, including Yemen, Afghanistan, China, Saudi Arabia, Algeria, Tunisia, Syria, Libya, Kuwait, and Pakistan. Approximately 40 percent—97 detainees—were Yemeni, while over 10 percent were Afghan.



**Point of Capture.** The large majority of the detainees in the population reviewed—approximately 60 percent—were captured inside Afghanistan or in the Afghanistan-Pakistan border area. Approximately 30 percent of the detainees were captured inside Pakistan. The remaining 10 percent were captured in countries other than Afghanistan or Pakistan.



**Arrival at Guantanamo.** Most of the detainees reviewed—approximately 80 percent—arrived at Guantanamo in 2002, having been captured during the early months of operations in Afghanistan. The remaining detainees arrived in small numbers over succeeding years.

## VII. Transfer Decisions

### A. Background

As the first step in the review process, the Executive Order required the review participants to determine which Guantanamo detainees could be transferred or released consistent with the national security and foreign policy interests of the United States. The Executive Order further required the Secretary of Defense, the Secretary of State, and other review participants as appropriate, to “work to effect promptly the release or transfer of all individuals for whom release or transfer is possible.”

Prior to the initiation of the review, 59 of the 240 detainees subject to review were approved for transfer or release by the prior administration but remained at Guantanamo by the time the Executive Order was issued. One reason for their continued detention was that more than half of the 59 detainees could not be returned to their home countries consistent with U.S. policy due to post-transfer treatment concerns.<sup>11</sup> Thus, many of the 59 detainees required resettlement in a third country, a process that takes time and requires extensive diplomatic efforts.

In addition, 29 of the detainees subject to review were ordered released by a federal district court as the result of habeas litigation. Of these 29 detainees, 18 were

<sup>11</sup> It is the longstanding policy of the United States not to transfer a person to a country if the United States determines that the person is more likely than not to be tortured upon return or, in appropriate cases, that the person has a well-founded fear of persecution and is entitled to persecution protection. This policy is consistent with the approach taken by the United States in implementing the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the Protocol Relating to the Status of Refugees. Accordingly, prior to any transfer, the Department of State works closely with relevant agencies to advise on the likelihood of persecution or torture in the given country and the adequacy and credibility of assurances obtained from the foreign government.

ordered released after the government conceded the case.<sup>12</sup> The remaining 11 detainees were ordered released after a court reached the merits of the case and ruled, based on a preponderance of the evidence, that the detainee was not lawfully held because he was not part of, or did not substantially support, al-Qaida, the Taliban, or associated forces.<sup>13</sup> Of the 29 detainees ordered released, 18 were among the 59 who had been approved by the prior administration for transfer or release. Thus, a total of 70 detainees subject to the review were either approved for transfer during the prior administration or ordered released by a federal court.

## **B. Decisions**

Based on interagency reviews and case-by-case threat evaluations, 126 of the 240 detainees were approved for transfer by agreement of senior officials from the agencies named in the Executive Order.

The 126 detainees unanimously approved for transfer include 44 who have been transferred to date—24 to their home countries,<sup>14</sup> 18 to third countries for resettlement,<sup>15</sup> and two to Italy for prosecution. Of the 82 detainees who remain at Guantanamo and who have been approved for transfer, 16 may be repatriated to their home countries (other than Yemen) consistent with U.S. policies concerning humane treatment, 38 cannot be repatriated due to humane treatment or related concerns in their home countries (other than Yemen) and thus need to be resettled in a third country, and 29 are from Yemen. Half of all detainees approved for transfer—63 of the 126—also had been approved for transfer during the prior administration, ordered released by a federal court, or both.<sup>16</sup>

There were considerable variations among the detainees approved for transfer. For a small handful of these detainees, there was scant evidence of any involvement with terrorist groups or hostilities against Coalition forces in Afghanistan. However, for most of the detainees approved for transfer, there were varying degrees of evidence indicating that they were low-level foreign fighters affiliated with al-Qaida or other groups operating in Afghanistan. Thousands of such individuals are believed to have passed

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<sup>12</sup> Of the 18 cases conceded by the government, 17 were brought by the Uighur detainees and were conceded by the prior administration. Eleven of the 18 detainees have been transferred to date.

<sup>13</sup> A total of 14 detainees have won their habeas cases on the merits in district court. The government transferred three of these detainees in December 2008; thus, they were not subject to the review. Of the 11 remaining detainees who were reviewed under the Executive Order, seven have been transferred to date. Of the four who have not been transferred, the United States is appealing the district court's ruling in two of the cases, and is still within the time period to appeal the remaining two cases.

<sup>14</sup> The 24 detainees transferred to their home countries were repatriated to Afghanistan (5), Algeria (2), Chad (1), Iraq (1), Kuwait (2), Saudi Arabia (3), Somalia (Somaliland) (2), the United Kingdom (1), and Yemen (7).

<sup>15</sup> The 18 detainees transferred to third countries for resettlement were transferred to Belgium (1), Bermuda (4), France (2), Hungary (1), Ireland (2), Portugal (2), and Palau (6).

<sup>16</sup> The review participants reviewed the detainees who had been approved for transfer by the prior Administration and designated seven such detainees (all of whom were from Yemen) for conditional detention instead of transfer.

through Afghanistan from the mid-1990s through 2001, recruited through networks in various countries in the Middle East, North Africa, and Europe. These individuals varied in their motivations, but they typically sought to obtain military training at one of the many camps operating in Afghanistan; many subsequently headed to the front lines to assist the Taliban in their fight against the Northern Alliance. For the most part, these individuals were uneducated and unskilled. At the camps, they typically received limited weapons training. While al-Qaida used its camps to vet individuals for more advanced training geared toward terrorist operations against civilian targets, only a small percentage of camp attendees were deemed suitable for such operations. The low-level fighters approved for transfer were typically assessed by the review participants not to have been selected for such training. Many were relatively recent recruits to the camps, arriving in Afghanistan in the summer of 2001. After the camps closed in anticipation of the arrival of U.S. forces in October 2001, some of these individuals were transported by camp personnel or otherwise made their way to the Tora Bora mountain range, where they joined fighting units, but subsequently dispersed in the face of U.S. air attacks.

It is important to emphasize that a decision to approve a detainee for transfer does not reflect a decision that the detainee poses no threat or no risk of recidivism. Rather, the decision reflects the best predictive judgment of senior government officials, based on the available information, that any threat posed by the detainee can be sufficiently mitigated through feasible and appropriate security measures in the receiving country. Indeed, all transfer decisions were made subject to the implementation of appropriate security measures in the receiving country, and extensive discussions are conducted with the receiving country about such security measures before any transfer is implemented. Some detainees were approved for transfer only to specific countries or under specific conditions, and a few were approved for transfer only to countries with pending prosecutions against the detainee (or an interest in pursuing a future prosecution). Each decision was made on a case-by-case basis, taking into account all of the information about the detainee and the receiving country's ability to mitigate any threat posed by the detainee. For certain detainees, the review participants considered the availability of rehabilitation programs and mental health treatment in the receiving country. The review participants also were kept informed of intelligence assessments concerning recidivism trends among former detainees.

It is also important to emphasize that a decision to approve a detainee for transfer does not equate to a judgment that the government lacked legal authority to hold the detainee. To be sure, in some cases the review participants had concerns about the strength of the evidence against a detainee and the government's ability to defend his detention in court, and considered those factors, among others, in deciding whether to approve the detainee for transfer. For many of the detainees approved for transfer, however, the review participants found there to be reliable evidence that the detainee had engaged in conduct providing a lawful basis for his detention. The review participants nonetheless considered these detainees appropriate candidates for transfer from a threat perspective, in light of their limited skills, minor organizational roles, or other factors.

### C. Yemeni Detainees

From the outset of the review, it was clear that the Yemeni detainees posed a unique challenge: there were 97 Yemenis subject to the review, by far the largest group in the Guantanamo population, and the security situation in Yemen had deteriorated. Al-Qaida was gaining strongholds in certain regions of the country, and the government of Yemen was facing a rebellion in other regions. Potential options for rehabilitation programs and other security measures were carefully considered throughout the course of the review, but conditions in Yemen remained a primary concern.

Taking into account the current intelligence regarding conditions in Yemen, and the individual backgrounds of each detainee, the review participants unanimously approved 36 of the 97 Yemeni detainees for transfer subject to appropriate security measures. The decision to approve these detainees for transfer, however, did not require immediate implementation. Rather, by making each transfer decision contingent on the implementation of appropriate security measures, the review participants allowed for necessary flexibility in the timing of these transfers. Under these transfer decisions, detainees would be returned to Yemen only at a time, and only under conditions, deemed appropriate from a security perspective.

To date, only seven of the 36 Yemeni detainees approved for transfer have been transferred to Yemen.<sup>17</sup> One was transferred in September 2009 pursuant to a court order, and six were transferred in December 2009. The six who were repatriated in December 2009 were selected by the unanimous agreement of high-level officials in the agencies named in the Executive Order, after further individualized reviews of the detainees, including consideration of threat-related information, the evidence against the detainees, and the government's ability to successfully defend the lawfulness of their detentions in court. This decision involved high-level coordination within the government and reflected a determination that these six specific detainees should be returned to Yemen at that time.

There are 29 Yemenis approved for transfer who remain at Guantanamo. The involvement of Al-Qaida in the Arabian Peninsula—the branch of al-Qaida based in Yemen—in the recent attempted bombing of an airplane headed to Detroit underscored the continued need for a deliberate approach toward any further effort to repatriate Yemeni detainees. In the wake of the attempted plot, the President publicly announced a moratorium on the transfer of detainees to Yemen. Accordingly, none of the 29 Yemeni detainees remaining at Guantanamo who are approved for transfer will be repatriated to Yemen until the moratorium is lifted. These detainees may be considered for resettlement in third countries subject to appropriate security measures, if such options become available.

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<sup>17</sup> During the last administration, 14 detainees were returned to Yemen, and an additional 15 Yemeni detainees were among the 59 approved for (but still awaiting) transfer as of January 20, 2009.

## VIII. Prosecution Decisions

### A. Background

The Executive Order provides that “[i]n accordance with United States law, the cases of individuals detained at Guantanamo not approved for release or transfer shall be evaluated to determine whether the Federal Government should seek to prosecute the detained individuals for any offenses they may have committed, including whether it is feasible to prosecute such individuals before a court established pursuant to Article III of the United States Constitution [*i.e.*, federal court].” In a speech at the National Archives on May 21, 2009, the President reiterated that “when feasible, we will try those who have violated American criminal laws in federal courts.” As the President noted in his speech, federal prosecutors have a long history of successfully prosecuting all manner of terrorism offenses in the federal courts:

Our courts and juries of our citizens are tough enough to convict terrorists, and the record makes that clear. Ramzi Yousef tried to blow up the World Trade Center—he was convicted in our courts, and is serving a life sentence in U.S. prison. Zacarias Moussaoui has been identified as the 20<sup>th</sup> 9/11 hijacker—he was convicted in our courts, and he too is serving a life sentence in prison. If we can try those terrorists in our courts and hold them in our prisons, then we can do the same with detainees from Guantanamo.

The President also stressed that military commissions “have a history in the United States dating back to George Washington and the Revolutionary War” and remained “an appropriate venue for trying detainees for violations of the laws of war.” Accordingly, the administration proposed, and Congress has since enacted, reforms to the military commissions system to ensure that the commissions are fair, legitimate, and effective.

In accordance with the President’s guidance, the Task Force evaluated detainees for possible prosecution wherever there was any basis to conclude that prosecution in either federal court or a military commission was appropriate and potentially feasible. The Task Force prosecutors focused their review at first on the 23 detainees who, as of the issuance of the Executive Order, were facing charges in the military commissions, as well as several other uncharged detainees whose cases were related to those of charged detainees.<sup>18</sup> The Task Force then evaluated for possible prosecution the approximately 40 additional detainees whom OMC had designated for potential prosecution. Finally, the Task Force reviewed every detainee for prosecution who was deemed ineligible for transfer.

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<sup>18</sup> As of January 22, 2009, there were 12 detainees whose cases had been referred to a military commission, including the defendants in the September 11 prosecution. In compliance with the Executive Order, their cases were halted.

In conducting its reviews, the Task Force worked closely with OMC. Task Force members had access to OMC files, and OMC prosecutors briefed the Task Force on their cases. Upon request, Department of Defense investigators and FBI agents who had worked on investigations met with Task Force members to answer their questions. The Task Force also reviewed original source information pertaining to the detainees and was able to identify previously unexploited sources of evidence.

As the Task Force completed its prosecution reviews, it identified those cases that appeared feasible for prosecution in federal court, or at least potentially feasible, if certain investigative steps were pursued with success. In this regard, the Task Force identified a number of avenues for strengthening important cases and developing them for prosecution. For example, the Task Force determined that there were more than a thousand pieces of potentially relevant physical evidence (including electronic media) seized during raids in the aftermath of the September 11 attacks that had not yet been systematically catalogued and required further evaluation for forensic testing. There were potential cooperating witnesses who could testify against others at trial, and key fact witnesses who needed to be interviewed. Finally, certain foreign governments, which had been reluctant to cooperate with the military commissions, could be approached to determine whether they would provide cooperation in a federal prosecution. Given the limited resources of the Task Force to pursue this additional work, the Review Panel referred cases that appeared potentially feasible for federal prosecution to the Department of Justice for further investigation and prosecutorial review.

The Department of Justice and Department of Defense agreed upon a joint protocol to establish a process for determining whether prosecution of a referred case should be pursued in a federal court or before a military commission. Under the protocol—titled *Determination of Guantanamo Cases Referred for Prosecution*—there is a presumption that prosecution will be pursued in a federal court wherever feasible, unless other compelling factors make it more appropriate to pursue prosecution before a military commission. The evaluations called for under the protocol are conducted by teams of both federal and military prosecutors. Among the criteria they apply are: the nature of the offenses to be charged; the identity of the victims; the location of the crime; the context in which the defendant was apprehended; and the manner in which the case was investigated and by which investigative agency. The Attorney General, in consultation with the Secretary of Defense, makes the ultimate decision as to where a prosecution will be pursued.

## **B. Decisions**

As a result of the Task Force's review, the Review Panel referred 44 cases to the Department of Justice for potential prosecution and a decision regarding the forum for any prosecution.<sup>19</sup> Decisions to seek prosecution have been announced in 12 of these cases; 24 remain pending under the protocol; and eight of the detainees initially referred were subsequently designated for other dispositions.

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<sup>19</sup> The review participants did not determine that any additional detainees were potentially feasible for prosecution solely before a military commission at this time.



On May 21, 2009, the Department of Justice announced that Ahmed Ghailani, who had previously been indicted in the United States District Court for the Southern District of New York for his alleged role in the 1998 bombings of the U.S. embassies in Kenya and Tanzania, would be prosecuted in federal court.<sup>20</sup> On June 9, 2009, Ghailani was transferred from Guantanamo to the Southern District of New York, where his case is pending.

On November 13, 2009, the Attorney General announced that the government would pursue prosecution in federal court in the Southern District of New York against the five detainees who had previously been charged before a military commission for their roles in the September 11 attacks. They are:

- Khalid Sheikh Mohammed, the alleged mastermind of the September 11 plot;
- Ramzi bin al-Shibh, the alleged coordinator of the September 11 plot who acted as intermediary between Khalid Sheikh Mohammed and the hijackers in the United States;
- Walid Muhammed Salih Mubarak Bin Attash (a.k.a. Khallad Bin Attash), an alleged early member of the September 11 plot who tested airline security on United Airlines flights between Bangkok and Hong Kong;
- Mustafa Ahmed al-Hawsawi, an alleged facilitator of hijackers and money to the United States from his base in Dubai; and
- Ali Abdul Aziz Ali (a.k.a. Ammar Baluchi), a second alleged facilitator of hijackers and money to the United States from his base in Dubai.

On the same day, the Attorney General also announced that the prosecution against Abd al-Rahim al-Nashiri, the alleged mastermind of the bombing of the U.S.S. *Cole*, would be pursued before a military commission. The Attorney General further decided that four other detainees whose cases were pending before military commissions when the Executive Order was issued would remain before the commissions: Ahmed al-Darbi, Noor Uthman, Omar Khadr, and Ibrahim al-Qosi. In January 2010, the Department of Justice announced that Obaidullah, whom OMC had charged but whose case had not yet been referred to a military commission, will remain in the military commission system.

Twenty-four of the referred cases remain pending with the Department of Justice under the protocol. No final decision has been made regarding whether or in what forum these detainees will be prosecuted.

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<sup>20</sup> The decision to pursue prosecution against Ghailani in federal court was made before the joint prosecution protocol was in effect.

Eight of the referred detainees are no longer under active consideration for prosecution. One detainee who had been referred for prosecution was transferred pursuant to a court order in his habeas case. Seven additional detainees who had been referred for prosecution were ultimately referred back to the Task Force, based on a determination that the cases were not feasible for prosecution in either federal court or the military commission system at this time. Six of these detainees were subsequently approved for continued detention under the AUMF without criminal charges, and one was approved for transfer. As a result of these subsequent decisions, there are currently 36 cases with active prosecution referrals.

### **C. Detainees Who Cannot Be Prosecuted**

The Task Force concluded that for many detainees at Guantanamo, prosecution is not feasible in either federal court or a military commission. There are several reasons for these conclusions.

First, the vast majority of the detainees were captured in active zones of combat in Afghanistan or the Pakistani border regions. The focus at the time of their capture was the gathering of intelligence and their removal from the fight. They were not the subjects of formal criminal investigations, and evidence was neither gathered nor preserved with an eye toward prosecuting them. While the intelligence about them may be accurate and reliable, that intelligence, for various reasons, may not be admissible evidence or sufficient to satisfy a criminal burden of proof in either a military commission or federal court. One common problem is that, for many of the detainees, there are no witnesses who are available to testify in any proceeding against them.

Second, many of the detainees cannot be prosecuted because of jurisdictional limitations. In many cases, even though the Task Force found evidence that a detainee was lawfully detainable as part of al-Qaida—*e.g.*, based on information that he attended a training camp, or played some role in the hierarchy of the organization—the Task Force did not find evidence that the detainee participated in a specific terrorist plot. The lack of such evidence can pose obstacles to pursuing a prosecution in either federal court or a military commission. While the federal material support statutes have been used to convict persons who have merely provided services to a terrorist organization, *e.g.*, by attending a terrorist training camp, there are potential limitations to pursuing such a charge against the detainees.<sup>21</sup>

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<sup>21</sup> Among these limitations: First, the two relevant statutes—18 U.S.C. §§ 2339A and 2339B—were not amended to expressly apply extraterritorially to non-U.S. persons until October 2001 and December 2004, respectively. Thus, material support may not be available as a charge in the federal system unless there is sufficient evidence to prove that a detainee was supporting al-Qaida after October 2001 at the earliest. Second, the statute of limitations for these offenses is typically eight years (*see* 18 U.S.C. § 3286), which may bar prosecution for offenses that occurred well before the detainee's capture. Third, because the statutory maximum sentence for material support is 15 years (where death does not result from the offense), sentencing considerations may weigh against pursuing prosecution in certain cases. Some of these considerations would not apply to material support charges brought in the military commissions; however, the legal viability of material support as a charge in the military commission system has been challenged on appeal in commission proceedings.

Notably, the principal obstacles to prosecution in the cases deemed infeasible by the Task Force typically did not stem from concerns over protecting sensitive sources or methods from disclosure, or concerns that the evidence against the detainee was tainted. While such concerns were present in some cases, most detainees were deemed infeasible for prosecution based on more fundamental evidentiary and jurisdictional limitations tied to the demands of a criminal forum, as described above.

Significantly, the Executive Order does not preclude the government from prosecuting at a later date someone who is presently designated for continued detention. Work on these cases continues. Further exploitation of the forensic evidence could strengthen the prosecution against some detainees. Other detainees may cooperate with prosecutors. If either the Department of Justice or the Department of Defense concludes in the future that prosecution of a detainee held without charges has become feasible in federal court or in a military commission, the detention decisions made in the course of this review would permit the prosecution to go forward.

## **IX. Detention Decisions**

### **A. Background**

Under the Executive Order, the review participants were required first to consider whether it was possible to transfer, release, or prosecute each detainee. With respect to any detainees who were not deemed appropriate for transfer, release, or prosecution, the review participants were required to “select lawful means, consistent with the national security and foreign policy interests of the United States and the interests of justice, for the disposition of such individuals.”

In accordance with this framework, detainees were first reviewed to determine whether transfer or release was consistent with the national security and foreign policy interests of the United States and whether they could be prosecuted. If those options did not appear feasible, the review participants then considered whether the detainee’s national security threat justified continued detention under the AUMF without criminal charges, and, if so, whether the detainee met the legal requirements for detention.

### **B. Decisions**

As the result of this review, 48 detainees were unanimously approved for continued detention under the AUMF.

Although each detainee presented unique issues, all of the detainees ultimately designated for continued detention satisfied three core criteria: First, the totality of available information—including credible information that might not be admissible in a criminal prosecution—indicated that the detainee poses a high level of threat that cannot be mitigated sufficiently except through continued detention; second, prosecution of the detainee in a federal criminal court or a military commission did not appear feasible; and third, notwithstanding the infeasibility of criminal prosecution, there is a lawful basis for the detainee’s detention under the AUMF.

Broadly speaking, the detainees designated for continued detention were characterized by one or more of the following factors:

- **Significant organizational role within al-Qaida, the Taliban, or associated forces.** In contrast to the majority of detainees held at Guantanamo, many of the detainees approved for detention held a leadership or other specialized role within al-Qaida, the Taliban, or associated forces. Some provided operational, logistical, financial, or fundraising support for al-Qaida. Others were al-Qaida members who were selected to serve as bodyguards for Usama bin Laden based on their loyalty to the organization. Others were Taliban military commanders or senior officials, or played significant roles in insurgent groups in Afghanistan allied with the Taliban, such as Hezb-e-Islami Gulbuddin.
- **Advanced training or experience.** The detainees approved for detention tended to have more extensive training or combat experience than those approved for transfer. Some of these detainees were veteran *jihadists* with lengthy involvement in the training camps in Afghanistan. Several had expertise in explosives or other tactics geared toward terrorist operations.
- **Expressed recidivist intent.** Some detainees designated for detention have, while at Guantanamo, expressly stated or otherwise exhibited an intent to reengage in extremist activity upon release.
- **History of associations with extremist activity.** Some of the detainees approved for detention have a history of engaging in extremist activities or particularly strong ties (either directly or through family members) to extremist organizations.

*Lawful basis for detention.* Under the Executive Order, every detainee's disposition must be lawful. Accordingly, the Task Force consulted closely with the Department of Justice regarding every detainee approved for continued detention to ensure that the detainee fell within the bounds of the Government's detention authority under the AUMF, as described above.

*Prosecution not currently feasible.* Although dangerous and lawfully held, the detainees designated for detention currently cannot be prosecuted in either a federal court or a military commission. While the reasons vary from detainee to detainee, generally these detainees cannot be prosecuted because either there is presently insufficient admissible evidence to establish the detainee's guilt beyond a reasonable doubt in either a federal court or military commission, or the detainee's conduct does not constitute a chargeable offense in either a federal court or military commission. Though prosecution currently is not feasible for these detainees, designating a detainee for detention does not preclude future prosecution in either a federal court or a military commission should new evidence or other developments make a prosecution viable.

*Transfer or release not currently feasible.* Finally, none of the detainees approved for detention can be safely transferred to a third country at this time. This does

not mean that the detainee could never be safely transferred to a third country. Rather, designating the detainee for continued detention at this time indicates only that given the detainee's current threat and the current willingness or ability of potential destination countries to mitigate the threat, the detainee is not currently eligible for transfer or release. Should circumstances change (*e.g.*, should potential receiving countries implement appropriate security measures), transfer might be appropriate in the future.

### C. Continued Reviews

Detainees approved for continued detention under the AUMF will be subject to further reviews. First, in accordance with the Supreme Court's decision in *Boumediene v. Bush*,<sup>22</sup> each detainee has the opportunity to seek judicial review of their detention by filing a petition for a writ of habeas corpus in federal court. In such cases, the court reviews whether the detainee falls within the government's lawful detention authority. In cases where courts have concluded that the detainee is not lawfully held, the courts have issued orders requiring the government to take diplomatic steps to achieve the detainee's release. Thus far, federal district courts have ruled on cases brought by four of the 48 detainees approved for continued detention. In each of the four cases, the district court denied the habeas petition and upheld the lawfulness of the detention. Many other cases are pending in district court, and some are pending on appeal.

Second, as the President stated in his speech at the National Archives, "a thorough process of periodic review" is needed to ensure that "any prolonged detention is carefully evaluated and justified." Thus, in addition to the judicial review afforded through habeas litigation, each detainee approved for continued detention will be subject to periodic Executive Branch review.

### X. Conditional Detention Decisions: Yemeni Detainees

As discussed above, the review of the 97 Yemeni detainees posed particular challenges from the outset given the security situation in Yemen. After conducting a case-by-case review of the Yemeni detainees, the review participants unanimously agreed that 36 Yemenis (29 of whom remain at Guantanamo) are appropriate for transfer, subject to security measures, and that 26 Yemenis should continue to be detained under the AUMF in light of their individual threat. In addition, there are currently five Yemenis with active prosecution referrals, two of whom the Attorney General announced will be prosecuted in federal court for their roles in the September 11 attacks (Ramzi bin al-Shibh and Walid Muhammed Salih Mubarak Bin Attash).

The remaining 30 Yemeni detainees were determined to pose a lower threat than the group of detainees designated for continued detention under the AUMF. Nonetheless, the review participants determined, based on a number of factors, that these 30 detainees should not be transferred to Yemen in the near future and should not be among the first groups of transfers to Yemen even if the current moratorium on such transfers is lifted.

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<sup>22</sup> 122 S. Ct. 2229 (2008).

Thus, these 30 detainees were approved for “conditional” detention, meaning that they may be transferred if one of the following conditions is satisfied: (1) the security situation improves in Yemen; (2) an appropriate rehabilitation program becomes available; or (3) an appropriate third-country resettlement option becomes available. Should any of these conditions be satisfied, however, the remaining 29 Yemeni detainees approved for transfer would receive priority for any transfer options over the 30 Yemeni detainees approved for conditional detention.<sup>23</sup>

At the time of the closure of the detention facilities at Guantanamo, the status of detainees approved for conditional detention will be reconsidered for possible transfer to Yemen, a third country, or a detention facility in the United States.

## **XI. Diplomatic Efforts**

The President’s Executive Order recognized that diplomatic efforts would be essential to the review and appropriate disposition of individuals detained at Guantanamo. To implement the review decisions approving the transfer of detainees, the order provides that the “Secretary of Defense, the Secretary of State, and, as appropriate, other Review participants shall work to effect promptly the release or transfer of all individuals for whom release or transfer is possible.” The President emphasized this point during his speech at the National Archives, stating that for cases involving “detainees who we have determined can be transferred safely to another country . . . my Administration is in ongoing discussions with a number of other countries about the transfer of detainees to their soil.”

To fulfill this mission, the Secretary of State created an office to lead the diplomatic efforts to transfer detainees and appointed an experienced career diplomat to serve as the Special Envoy for the Closure of the Guantanamo Bay Detention Facilities. The highest levels in the administration supported these efforts. The President, Vice President, and Cabinet members—including the Secretary of State, Attorney General, and Secretary for Homeland Security—have discussed the closure of the Guantanamo detention facilities and the transfer of detainees outside the United States with their foreign government counterparts. To assist these diplomatic efforts, the National Counterterrorism Center facilitated the sharing of information about the detainees with foreign governments considering whether to accept them. In addition, the government arranged meetings between officials from interested countries and detainees at Guantanamo to facilitate resettlement and repatriation discussions.

From the outset of the review, the State Department developed a diplomatic strategy for Guantanamo, focusing on efforts to resettle detainees who could not be sent to their home countries because of post-transfer treatment concerns. In June 2009, the United States and European Union concluded a joint statement in support of the

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<sup>23</sup> Ten of the detainees approved for conditional detention had initially been approved for transfer by the review participants. Because the specific conditions placed on the transfer approvals of these 10 detainees were the equivalent of those used for the conditional detention category, the 10 detainees were later redesignated for conditional detention.

resettlement of a number of detainees in Europe, expressing the readiness of certain member states to resettle former Guantanamo detainees on a case-by-case basis. Following this joint statement, a number of European governments—such as Spain, Italy, Portugal, and Ireland—announced that they were prepared to work out arrangements to accept some detainees. In addition, the Government of Palau also announced its readiness to accept a number of Uighur detainees. Following these initial successes, the State Department intensified efforts to implement resettlements. The public offers by some European governments to resettle detainees encouraged other governments to make similar offers.

To date, the diplomatic efforts taken under the Executive Order have led to the resettlement of 18 detainees in the following seven locations: Belgium, Bermuda, France, Hungary, Ireland, Palau, and Portugal.<sup>24</sup> Resettlement negotiations are ongoing with a number of countries, *e.g.*, Spain, Switzerland, and Slovakia. In addition, Italy accepted two detainees for criminal prosecution on charges stemming from pre-9/11 activities. All efforts to resettle detainees include discussions with receiving governments about post-transfer security measures, as well as other issues such as the integration and humane treatment of resettled detainees.

The process for engaging a country on resettlement issues can be lengthy and complicated. The State Department has engaged in discussions with dozens of countries across the globe to initiate or further resettlement negotiations once it has been determined that a government is open to discussions. When this process is successful, initial receptiveness leads to discussions regarding individual detainees, foreign government interagency review, foreign government interviews of prospective resettlement candidates, the foreign government's formal decision-making process, integration plans, and, ultimately, resettlement. The length of the effort often has been influenced by political and other issues in potential resettlement countries (*e.g.*, public perceptions of current and past U.S. detention policies), third-country views (and sometimes pressure) with respect to detainee resettlement, and public views of the Guantanamo detention facility generally. Depending on how these factors affect individual cases, the process can be very lengthy.

Once a resettlement has occurred, the State Department and other agencies remain in contact with host governments following transfer on these issues. The State Department is engaged in ongoing discussions for the remaining detainees who cannot be repatriated due to post-transfer treatment concerns and is on track to find resettlement countries for most if not all of the detainees in this category.

The State Department also has worked to repatriate detainees to their home countries, in coordination with other agencies and with the National Security Council. Thus far, 24 detainees have been repatriated since last January to nine different locations—Afghanistan, Algeria, Chad, Iraq, Kuwait, Saudi Arabia, Somaliland, the United Kingdom, and Yemen. All decisions to repatriate detainees have been made in

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<sup>24</sup> From 2002-2008, a total of eight Guantanamo detainees were resettled, all in Albania.

light of the latest intelligence information and with the consent of all relevant agencies. In light of such information, and following the attempted terrorist attack on December 25, 2009, the President announced that repatriations to Yemen would be suspended for the foreseeable future. In addition, the government has adopted enhanced procedures for the implementation of repatriation decisions, requiring a cabinet-level review prior to going forward with any repatriation.

## **XII. Conclusion**

The review process established pursuant to the Executive Order is now complete. The participating agencies have reviewed and unanimously agreed on dispositions for each of the 240 detainees subject to the review. The agencies responsible for the review will continue to handle operational issues involving detainees, including the implementation of the review determinations, and the National Security Council will coordinate the resolution of policy issues pertaining to Guantanamo. The Task Force has ensured that its analyses of the detainees and the information collected in the course of the review are properly preserved to assist in the resolution of these issues going forward.



# EXHIBIT F

REVISED JUNE 30, 2009<sup>1</sup>

**GUANTANAMO REVIEW TASK FORCE**  
**DETAINEE REVIEW GUIDELINES**

Pursuant to the Executive Order on the Review and Disposition of Individuals Detained at Guantanamo Bay Naval Base and Closure of Detention Facilities, issued on January 22, 2009 (“Executive Order”), the Guantanamo Review Task Force (“Task Force”) shall follow the Guidelines herein in developing its recommendations with respect to individual detainees. These Guidelines are not intended to, and do not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

**I. Underlying Framework**

The Executive Order establishes the following framework for the review and disposition of individuals currently detained:

- First, determine with respect to each detainee whether it is possible to transfer or release the detainee consistent with the national security and foreign policy interests of the United States and, if so, whether and how the Secretary of State and Secretary of Defense may effect the detainee’s transfer or release;
- Second, with respect to any detainee not approved for transfer or release, determine whether the federal government should seek to prosecute the detainee for any offenses they may have committed, including whether it is feasible to prosecute such individuals in an Article III court;
- Third, with respect to any detainee whose disposition is not achieved through transfer, release, or prosecution, select other lawful means, consistent with the national security and foreign policy interests of the United States and the interests of justice, for the disposition of the detainee.

Based on this framework, the first option to be considered is transfer or release. In evaluating whether transfer or release of a detainee would be consistent with the national security and foreign policy interests of the United States, Task Force review teams must work against the backdrop of the finding made in the Executive Order that closing the detention facilities at Guantanamo and resolving the prolonged detention of the individuals detained there would promote the national security and foreign policy interests of the United States. As stated in the Guantanamo Review Executive Order: “Some individuals currently detained at Guantanamo have been there for more than 6 years, and most have been detained for at least 4 years. In view of the significant concerns raised by these detentions, both within the United States and

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<sup>1</sup> Revisions made to these Guidelines have been approved by the Guantanamo Review Panel and reflect the Guantanamo Review Task Force’s practices to date.

internationally, prompt and appropriate disposition of the individuals currently detained at Guantanamo and closure of the facilities in which they are detained would further the national security and foreign policy interests of the United States and the interests of justice.” Accordingly, review teams must consider with respect to each detainee not only whether his transfer or release would pose some level of threat to national security – including whether such threat could be mitigated by security measures imposed by the destination country – but also the harm to the national security and foreign policy interests of the United States resulting from his continued detention.

The Executive Order anticipates that new diplomatic efforts may result in transfer or release of a substantial number of individuals currently detained at Guantanamo, and directs that the Secretary of State, the Secretary of Defense, and, as appropriate, other Review participants shall work to effect promptly the release or transfer of all individuals for whom release or transfer is possible. Consequently, every effort should be made to assess whether transfer or release is possible consistent with the national security and foreign policy interests of the United States and the interests of justice.

## **II. Review Structure**

### **A. Task Force**

The Task Force staff is grouped into two teams for purposes of conducting the detainee reviews mandated by the President’s order: (1) a transfer team and (2) a prosecution team.

The transfer team is responsible for evaluating whether detainees can be transferred or released<sup>2</sup> consistent with the national security and foreign policy interests of the United States. The transfer team shall be composed of representatives from each department and agency listed in the Executive Order.

To ensure that all relevant agency viewpoints are considered before a detainee is recommended for transfer or release, proposed transfer team recommendations shall be discussed in group deliberations that include representatives from each agency represented on the Task Force. Recommendations should be finalized only after a transfer team member from each agency has had an opportunity to express a view and voice any objections to the proposed recommendation. Dissenting views on material issues should be noted in the recommendation or otherwise made known to the Review Panel.

The prosecution team is responsible for recommending whether the government should seek to prosecute certain detainees, including whether it is feasible to prosecute the detainees in Article III courts. The prosecution team shall be staffed predominantly by federal prosecutors and investigative agents from the Department of Justice and Department of Defense.

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<sup>2</sup> The term “release” is used to mean release from confinement without the need for security measures to be imposed by the destination country. The term “transfer” is used to mean release from confinement subject to appropriate security measures in the destination country.

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Both the transfer and prosecution teams shall prepare their recommendations in consultation with the Executive Director of the Task Force (or his designee), who shall present those recommendations to the Guantanamo Review Panel (“Review Panel”) on a rolling basis.

**B. Review Panel**

The Review Panel consists of senior-level officials from each of the agencies listed in the Executive Order. Review Panel members have delegated authority from their respective Principals to decide the disposition of each detainee. The Review Panel meets regularly to discuss the recommendations of the Task Force and to make decisions regarding the disposition of detainees. If the Review Panel members do not reach unanimous consensus regarding a particular detainee, the case is referred for decision to a Principals Committee consisting of the Cabinet-level officials listed in the Executive Order.

Once a final decision is made regarding the disposition of a detainee, the appropriate agencies are responsible for implementing the decision. Such agencies will notify the Review Panel of any issues arising during implementation that require further interagency consideration.

**III. Recommendation for Transfer or Release**

The transfer team shall conduct the following evaluations in determining whether to recommend a detainee for transfer or release.

**A. Threat Evaluation**

A detainee shall be eligible for release if he does not pose an identifiable threat to the national security of the United States. A detainee shall be eligible for transfer if any threat he poses can be sufficiently mitigated through feasible and appropriate security measures (*e.g.*, monitoring, restrictions on travel, and/or structured resettlement programs).

In evaluating the threat posed by a detainee, the transfer team shall consider the totality of available information regarding the detainee, including the factors enumerated below. In applying these factors, careful consideration must be given to the credibility and reliability of all the available information concerning the detainee. In particular, the team shall carefully scrutinize the basis for any conclusions set forth in prior threat assessments, intelligence reporting, and other information related to the detainee.

Threat factors to be considered include:

1. The extent to which the detainee was involved in or facilitated terrorist activities, including the extent to which the detainee may have planned or participated in specific terrorist attacks.<sup>3</sup>

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<sup>3</sup> For example, if the detainee was not involved in planning, leading, financing, organizing, aiding, or executing acts of terrorism, or facilitating the movement or training of terrorists, the detainee may be an appropriate candidate for transfer or release, absent countervailing factors.

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2. The extent to which the detainee was part of, or substantially supported, Taliban or al-Qaida forces or associated forces that are engaged in hostilities against the United States or its coalition partners, including whether the detainee committed a belligerent act, or has directly supported hostilities, in aid of such enemy armed forces.
3. The level of knowledge, skills, or training possessed by the detainee that has been or could be used for terrorist purposes, including the following: the training and ability to plan, lead, finance, organize, or execute acts of terrorism; the training and ability to facilitate the movement or training of terrorists; and any specialized training or operational experience (*e.g.*, training in paramilitary tactics, explosives, or weapons of mass casualty).<sup>4</sup>
4. The nature and extent of the detainee's ties with individual terrorists, terrorist organizations, terrorist support networks, or other extremists.<sup>5</sup>
5. Any substantial indications that the detainee intends to engage in terrorist activities or return to the battlefield upon release.
6. The detainee's physical and psychological condition.
7. The detainee's detention history, including whether the detainee was considered a danger to other detainees or other individuals.
8. Any other relevant factors bearing on the national security and foreign policy interests of the United States or the interests of justice.

#### B. Destination Country Evaluation

Any recommendation of release or transfer shall, to the extent practicable, include a recommendation of potential destination countries. The review team may also recommend that transfer is appropriate only to specified countries or under specified conditions. In evaluating potential destination countries, the review team shall consider:

1. The willingness and ability of the destination country to accept the release or transfer and to impose any security measures needed to sufficiently mitigate any national security threat posed by the detainee.

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<sup>4</sup> For example, if the detainee has only received basic firearms training (*e.g.*, he has been trained on how to use a standard military rifle) and has no other relevant knowledge, skills, or training, the detainee may be an appropriate candidate for transfer or release, absent countervailing factors.

<sup>5</sup> For example, if the detainee has had only passing interactions or isolated communications with known or suspected terrorists, and nothing further is known about the interactions or communications evidencing a more substantial relationship, the detainee may be an appropriate candidate for transfer or release, absent countervailing factors.

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2. The extent of the detainee's ties to the destination country, including, for example, ties of citizenship, nationality, language, family, tribe, or culture, as well as any expressed desire by the detainee to be transferred to the destination country (communicated either directly or through his attorney).
3. The extent of the detainee's connections with criminal or terrorist networks in the destination country or surrounding geographical area.
4. The extent to which the detainee is at risk of inhumane treatment in the destination country, and, to the extent such risk exists, the willingness and ability of the destination country to provide appropriate assurances against such mistreatment.<sup>6</sup>
5. The potential effects that the proposed release or transfer would have on the United States' relations with the destination country and on the foreign policy interests of the United States generally.
6. Any other factors bearing on whether release or transfer to the destination country would be consistent with the foreign policy and national security interests of the United States.

The transfer team shall not recommend the release or transfer of a detainee to the United States if the release or transfer would create a threat to the safety of United States persons that could not be sufficiently mitigated by feasible and appropriate security measures imposed by the Federal Bureau of Investigation, the Department of Homeland Security, and other relevant agencies.

### C. Legal Evaluation

The Executive Order requires review of the legal as well as the factual basis for the continued detention of each Guantanamo detainee. Accordingly, the transfer team shall evaluate whether each detainee meets the definition of the Government's detention authority set forth in the March 13, 2009 U.S. government filing in *In re: Guantanamo Bay Detainee Litigation*, Misc. No. 08-442. That filing explains that the United States bases its authority to detain individuals at Guantanamo on the Authorization for the Use of Military Force ("AUMF"), Pub. L. 107-40, 115 Stat. 224 (2001), as informed by principles of the laws of war. The filing further explains that, pursuant to this authority:

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<sup>6</sup> The need for such assurances, and their content, will be determined on a case-by-case basis, taking into account the particular characteristics of the detainee and the destination country. However, in all cases, such assurances will include an assurance that the destination country will abide by its obligations under the Convention Against Torture and Other Cruel, Inhumane, and Degrading Treatment or Punishment, or (if the destination country is not a party thereto) a comparable commitment. No transfer shall be approved to a foreign country where the U.S. Government determines it to be more likely than not that the detainee will be tortured.

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The President has the authority to detain persons that the President determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, and persons who harbored those responsible for those attacks. The President also has the authority to detain persons who were part of, or substantially supported, Taliban or al-Qaida forces or associated forces that are engaged in hostilities against the United States or its coalition partners, including any person who has committed a belligerent act, or has directly supported hostilities, in aid of such enemy armed forces.

Any detainee falling outside this definition must be recommended for transfer or release. In any case where there is concern that a detainee does not meet this definition, such concern should be raised promptly with the Executive Director, who will consult with interested agencies.

**IV. Recommendation to Seek Prosecution**

The prosecution team shall consider the following guidelines in determining whether to recommend a detainee for prosecution:

- A. Cases of detainees shall be evaluated to determine whether prosecution should be recommended for any offenses the detainees may have committed, including whether it is feasible to prosecute such detainees before an Article III court.
- B. A case should be recommended for referral to the Department of Justice for further prosecutorial review if the review team concludes that the detainee's conduct constitutes a Federal offense and that the admissible evidence or potentially available admissible evidence will probably be sufficient to obtain and sustain a conviction, unless, in the review team's judgment, prosecution should be declined because no substantial Federal interest would be served by prosecution. Among the Federal interests to be considered are any benefits to be derived from prosecuting detainees before an Article III court.
- C. In an ordinary criminal case, key factors in determining whether there is a substantial interest served by prosecution are:
  - 1. Federal law enforcement priorities.
  - 2. The nature and seriousness of the offense.
  - 3. The deterrent effect of prosecution.
  - 4. The detainee's culpability in connection with the offense.
  - 5. The detainee's history with respect to criminal activity.

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6. The detainee's willingness to cooperate in the investigation or prosecution of others.
7. The probable sentence or other consequences if the person is convicted.

Given the nature of these cases, other factors will also be significant in determining whether to recommend prosecution, including:

1. The need to protect classified information, including intelligence sources and methods.
2. Any legal impediment to prosecution stemming from the past treatment of a detainee.

**V. Recommendation to Seek Other Lawful Disposition**

Considerations with respect to recommendations of other lawful disposition will be reviewed in coordination with the Task Force on Detention Policy.



**SUPPLEMENT TO GUANTANAMO REVIEW TASK FORCE  
DETAINEE REVIEW GUIDELINES**

On August 28, 2009, the Guantanamo Review Task Force completed an initial review of all detainees held at the Guantanamo Bay Naval Base. In accordance with Executive Order 13492, the purpose of the initial review was to identify on a rolling basis and as promptly as possible those detainees that can be transferred or released consistent with the national security and foreign policy interests of the United States, as well as those detainees that should and can be prosecuted by the Federal Government. As a result of this initial review, 92 detainees were approved for transfer and 40 detainees were referred to the Department of Justice for possible prosecution.<sup>1</sup>

During the initial review, recommendations or decisions regarding the disposition of the remaining detainees were deferred pending further evaluation in a second phase review to determine whether the detainees should be designated for continued detention under the laws of war. As the President has stated, there may be a number of detainees who are too dangerous to release and who cannot be prosecuted in any forum. Subject to further policy decisions by the Administration, such detainees may continue to be held in a law of war detention status, but only if they meet the legal standard for continued detention under the Authorization for Use of Military Force (“AUMF”), Pub. L. 107-40, 115 Stat. 224 (2001), as informed by the principles of the laws of war. In addition, continued detention without criminal charges is an option under the review framework set forth in the Executive Order only where transfer, release, or prosecution is not possible consistent with national security and foreign policy interests and the interest of justice, and thus continued law of war detention should be selected only where necessary and appropriate. Accordingly, the purpose of the second phase review is to reevaluate the remaining detainees to determine whether they are appropriate for continued law of war detention—including whether they meet the legal standard for such detention—or whether upon further review they are deemed appropriate for transfer, release, or prosecution.

This supplement to the Guantanamo Review Task Force Detainee Review Guidelines (“Guidelines”) sets forth the process for the second phase review, as agreed to by the Guantanamo Review Panel. These supplemental guidelines are not intended to, and do not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

**Second Phase Review: Evaluation for Continued Law of War Detention**

The Task Force’s second phase review will be conducted by a review team composed of representatives from each department and agency listed in the Executive Order, as well as prosecutors from the Department of Justice who will work in

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<sup>1</sup> As of September 23, 2009, an additional four detainees recommended by the Task Force for transfer during the initial review remained pending before the Review Panel.

consultation with prosecutors from the Department of Defense. To the extent possible, the team should be composed primarily of individuals who have experience reviewing a broad range of detainees as part of their work on the Task Force's transfer or prosecution review teams.

In preparing their recommendations, the review team shall complete a threat evaluation, prosecution evaluation, and legal evaluation for each detainee, as described below. In accordance with the framework established by the Executive Order, every effort shall be made to ensure that all detainees who can be recommended for transfer, release, or prosecution consistent with national security and foreign policy interests and the interest of justice are recommended for such dispositions following this second phase review. A detainee should be considered eligible for continued law of war detention only if (1) the detainee poses a national security threat that cannot be sufficiently mitigated through feasible and appropriate security measures; (2) prosecution of the detainee by the Federal Government is not feasible in any forum; and (3) continued law of war detention is lawful.

As set forth in the Guidelines, the review team shall consider not only the risk that could be posed by the transfer or release of the detainee, but also the harm to the national security and foreign policy interests of the United States that could result from the continued detention of the detainee without criminal charges.

Recommendations for continued law of war detention shall identify any foreseeable contingencies that could warrant a change in the detainee's status at some point in the future. For example, a recommendation for continued law of war detention shall note whether a detainee is considered too dangerous to transfer or release only because security conditions in his home country are currently inadequate to mitigate the detainee's threat and resettlement is not an option (in which case, the team should recommend that the Review Panel or any successor entity revisit the possibility of transfer in the event that security conditions in the detainee's home country improve or a resettlement option becomes available). Likewise, a recommendation for continued law of war detention shall note whether there is a reasonable possibility that certain evidence or witnesses could develop that might make it feasible either to transfer or to prosecute the detainee at some point in the future.

#### **A. Threat Evaluation**

In conducting the threat evaluation, the review team shall follow the same standards and factors used by the transfer team during the initial review, as set forth in the Guidelines. The review team shall reexamine the Task Force's initial assessment of each detainee and seek to resolve any open questions from the deliberations of the Task Force or Review Panel. In particular, the team shall examine each detainee in light of experience gained and other transfer decisions made over the course of the initial review, to ensure that consistent standards are applied for all detainees.

In appropriate cases, before recommending a detainee for continued law of war detention, representatives from the Task Force may meet with the detainee's counsel in order to provide counsel an opportunity to present any additional information not already received regarding the appropriate disposition for the detainee and to provide an outside perspective on the Task Force's fact-finding process. The Task Force will consult closely with the Department of Justice in arranging any such meetings.

## **B. Prosecution Evaluation**

The prosecution evaluation in the initial review was focused primarily on the feasibility of prosecution in an Article III court. Each detainee subject to this second phase review shall be assessed for feasibility of prosecution in both an Article III court and the military commission system. This evaluation shall be conducted by the prosecutors on the review team in close consultation with the Office of Military Commissions ("OMC").

In particular, the prosecutors on the review team shall consult closely with OMC concerning any case previously designated for prosecution by OMC, in order to determine where the OMC investigation stands and whether a military commission prosecution appears feasible based on the currently available evidence. The prosecutors on the review team should also consult with OMC concerning any cases that have not been previously designated for military commission prosecution but that the Task Force considers potentially feasible for such prosecution.

As in the initial review, any detainees deemed potentially feasible for Article III prosecution (including detainees also deemed potentially feasible for military commission prosecution) shall be recommended for referral to the Department of Justice for further prosecutorial review and charging decisions pursuant to the protocol adopted by the Department of Justice and Department of Defense for handling such referrals.

Any detainees deemed potentially feasible for prosecution in a military commission but not feasible for prosecution in an Article III court shall be recommended for referral directly to OMC.

## **C. Legal Evaluation**

It is critical that any detainee recommended for continued law of war detention meet the legal standard for the Government's detention authority. As explained in the Government's filing on March 13, 2009 in *In re: Guantanamo Bay Detainee Litigation*, Misc. No. 08-442, the Government has set forth the following definitional framework for its detention authority, which is based on the AUMF as informed by the principles of war:

The President has the authority to detain persons that the President determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, and persons who harbored those responsible for those attacks. The President also has the authority to detain persons who were part of,

or substantially supported, Taliban or al-Qaida forces or associated forces that are engaged in hostilities against the United States or its coalition partners, including any person who has committed a belligerent act, or has directly supported hostilities, in aid of such enemy armed forces.

The review team shall work closely with the Department of Justice in obtaining a legal assessment for each detainee considered for continued law of war detention. This assessment shall address both the question of whether the detainee meets this legal standard for continued detention and the strength of the detainee's *habeas* case. The assessment shall be included in the Task Force's recommendation in order to inform the Review Panel's consideration of the appropriate disposition for the detainee.

A related interagency process coordinated by the Department of Justice has been charged with making Executive Branch determinations regarding the lawfulness of the detention of particular Guantanamo detainees and the Government's position in certain *habeas* cases. Any decision by the Review Panel regarding the continued detention of a detainee without criminal charges will be subject to determinations arising from this related interagency process.

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**GUANTANAMO REVIEW TASK FORCE**  
**DETAINEE REVIEW GUIDELINES**

Pursuant to the Executive Order on the Review and Disposition of Individuals Detained at Guantanamo Bay Naval Base and Closure of Detention Facilities, issued on January 22, 2009 (“Executive Order”), the Guantanamo Review Task Force (“Task Force”) shall follow the Guidelines herein in developing its recommendations with respect to individual detainees. These Guidelines are not intended to, and do not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

**I. Underlying Framework**

The Executive Order establishes the following framework for the review and disposition of individuals currently detained:

- First, determine with respect to each detainee whether it is possible to transfer or release the detainee consistent with the national security and foreign policy interests of the United States and, if so, whether and how the Secretary of State and Secretary of Defense may effect the detainee’s transfer or release;
- Second, with respect to any detainee not approved for transfer or release, determine whether the federal government should seek to prosecute the detainee for any offenses they may have committed, including whether it is feasible to prosecute such individuals in an Article III court;
- Third, with respect to any detainee whose disposition is not achieved through transfer, release, or prosecution, select other lawful means, consistent with the national security and foreign policy interests of the United States and the interests of justice, for the disposition of the detainee.

Based on this framework, the first option to be considered is transfer or release. In evaluating whether transfer or release of a detainee would be consistent with the national security and foreign policy interests of the United States, Task Force review teams must work against the backdrop of the finding made in the Executive Order that closing the detention facilities at Guantanamo and resolving the prolonged detention of the individuals detained there would promote the national security and foreign policy interests of the United States. As stated in the Guantanamo Review Executive Order: “Some individuals currently detained at Guantanamo have been there for more than 6 years, and most have been detained for at least 4 years. In view of the significant concerns raised by these detentions, both within the United States and internationally, prompt and appropriate disposition of the individuals currently detained at Guantanamo and closure of the facilities in which they are detained would further the national security and foreign policy interests of the United States and the interests of justice.” Accordingly, review teams must consider with respect to each detainee not only whether his transfer or release would pose some level of threat to national security – including whether such threat could be mitigated by security measures imposed by the destination country – but also the

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harm to the national security and foreign policy interests of the United States resulting from his continued detention.

The Executive Order anticipates that new diplomatic efforts may result in transfer or release of a substantial number of individuals currently detained at Guantanamo, and directs that the Secretary of State, the Secretary of Defense, and, as appropriate, other Review participants shall work to effect promptly the release or transfer of all individuals for whom release or transfer is possible. Consequently, every effort should be made to assess whether transfer or release is possible consistent with the national security and foreign policy interests of the United States and the interests of justice.

## II. Recommendation for Transfer or Release<sup>1</sup>

### A. Threat Evaluation

A detainee shall be eligible for release to a foreign country or the United States if he does not pose an identifiable threat to the national security of the United States. A detainee shall be eligible for transfer to a foreign country or to the United States if any threat he poses can be sufficiently mitigated through feasible and appropriate security measures (*e.g.*, monitoring, restrictions on travel, and/or structured resettlement programs).<sup>2</sup>

In evaluating the threat posed by a detainee, a review team shall consider the totality of available information regarding the detainee, including the factors enumerated below. In applying these factors, careful consideration must be given to the credibility and reliability of all the available information concerning the detainee. In particular, the review team shall carefully scrutinize the basis for any conclusions set forth in prior threat assessments, intelligence reporting, and other information related to the detainee.

Threat factors to be considered include:

1. The extent to which the detainee was involved in or facilitated terrorist activities against the United States or its partners or allies, including the extent to which the detainee may have planned or participated in specific attacks directed against United States persons or targets or those of its partners or allies. If the detainee was not substantially involved in planning, leading, financing, organizing, or executing acts of terrorism, or facilitating the movement or training of terrorists, the detainee should generally be deemed eligible for transfer or release, absent countervailing factors.

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<sup>1</sup> The term “release” is used to mean release from confinement without the need for security measures to be imposed by the destination country. The term “transfer” is used to mean release from confinement subject to appropriate security measures in the destination country.

<sup>2</sup> Where a detainee has been ordered transferred or released by a court, and the Government has exhausted its appeal rights or decided not to contest the order, the detainee shall be presumed eligible for transfer or release by the Task Force. However, the Task Force shall nonetheless conduct a threat evaluation for purposes of determining what security measures are needed to mitigate any threat posed by the detainee.

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2. The level of knowledge, skills, or training possessed by the detainee that has been or could be used for terrorist purposes, including the following: the training and ability to plan, lead, finance, organize, or execute acts of terrorism; the training and ability to facilitate the movement or training of terrorists; and any specialized training or operational experience (*e.g.*, training in paramilitary tactics, explosives, or weapons of mass casualty). If the detainee has only received basic firearms training (*e.g.*, he has been trained on how to use a standard military rifle) and has no other relevant knowledge, skills, or training, the detainee should generally be deemed eligible for transfer or release, absent countervailing factors.
3. The nature and extent of the detainee's ties with individual terrorists, terrorist organizations, terrorist support networks, or other extremists hostile to the United States or its partners or allies. If the detainee has had only passing interactions or isolated communications with known or suspected terrorists, and nothing further is known about the interactions or communications evidencing a more substantial relationship, the detainee should generally be deemed eligible for transfer or release, absent countervailing factors.
4. Any substantial indications that the detainee intends to engage in terrorist activities or return to the battlefield upon release.
5. The detainee's physical and psychological condition.
6. The detainee's detention history, including whether the detainee was considered a danger to other detainees or other individuals.
7. Any other relevant factors bearing on the national security and foreign policy interests of the United States or the interests of justice.

B. Destination Country Evaluation

Any recommendation of release or transfer shall, to the extent practicable, include a recommendation of potential destination countries, which may include the United States. In evaluating potential destination countries, the review team shall consider:

1. The willingness and ability of the destination country to accept the release or transfer and to impose any security measures needed to sufficiently mitigate any national security threat posed by the detainee.
2. The extent of the detainee's ties to the destination country, including, for example, ties of citizenship, nationality, language, family, tribe, or culture, as well as any expressed desire by the detainee to be transferred to the destination country (communicated either directly or through his attorney).

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3. The extent of the detainee's connections with criminal or terrorist networks in the destination country or surrounding geographical area.
4. The extent to which the detainee is at risk of inhumane treatment in the destination country, and, to the extent such risk exists, the willingness and ability of the destination country to provide appropriate assurances against such mistreatment.<sup>3</sup>
5. The potential effects that the proposed release or transfer would have on the United States' relations with the destination country and on the foreign policy interests of the United States generally.
6. Any other factors bearing on whether release or transfer to the destination country would be consistent with the foreign policy and national security interests of the United States and the interests of justice.

The review team shall not recommend the release or transfer of a detainee to the United States if the release or transfer would create a substantial threat to the safety of United States persons that could not be sufficiently mitigated by feasible and appropriate security measures imposed by the Federal Bureau of Investigation, the Department of Homeland Security, and other relevant agencies.

C. Legal Evaluation

The Executive Order requires review of the legal as well as the factual basis for the continued detention of each Guantanamo detainee. Accordingly, review teams shall evaluate whether each detainee meets the definition of the Government's detention authority set forth in the March 13, 2009 U.S. government filing in *In re: Guantanamo Bay Detainee Litigation*, Misc. No. 08-442. That filing explains that the United States bases its authority to detain individuals at Guantanamo on the Authorization for the Use of Military Force ("AUMF"), Pub. L. 107-40, 115 Stat. 224 (2001), as informed by principles of the laws of war. The filing further explains that, pursuant to this authority:

The President has the authority to detain persons that the President determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, and persons who harbored those responsible for those attacks. The President also has the authority to detain persons who were part of, or substantially supported, Taliban or al-Qaida forces or associated forces that are engaged in hostilities against the United States or its coalition partners, including any person who has

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<sup>3</sup> The need for such assurances, and their content, will be determined on a case-by-case basis, taking into account the particular characteristics of the detainee and the destination country. However, in all cases, such assurances will include an assurance that the destination country will abide by its obligations under the Convention Against Torture and Other Cruel, Inhumane, and Degrading Treatment or Punishment, or (if the destination country is not a party thereto) a comparable commitment. No transfer shall be approved to a foreign country where the U.S. Government determines it to be more likely than not that the detainee will be tortured.



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committed a belligerent act, or has directly supported hostilities, in aid of such enemy armed forces.

Any detainee falling outside this definition must be recommended for transfer or release. In any case where there is concern that a detainee does not meet this definition, such concern should be raised promptly with the Executive Director, who will consult with interested agencies.

**III. Recommendation to Seek Prosecution**

- A. Cases of detainees shall be evaluated to determine whether prosecution should be recommended for any offenses the detainees may have committed, including whether it is feasible to prosecute such detainees before an Article III court.
- B. A case should be recommended for Federal prosecution if the review team concludes that the detainee's conduct constitutes a Federal offense and that the admissible evidence will probably be sufficient to obtain and sustain a conviction, unless, in the review team's judgment, prosecution should be declined because no substantial Federal interest would be served by prosecution. Among the Federal interests to be considered are any benefits to be derived from prosecuting detainees before an Article III court.
- C. In an ordinary criminal case, key factors in determining whether there is a substantial interest served by prosecution are:
  - 1. Federal law enforcement priorities.
  - 2. The nature and seriousness of the offense.
  - 3. The deterrent effect of prosecution.
  - 4. The detainee's culpability in connection with the offense.
  - 5. The detainee's history with respect to criminal activity.
  - 6. The detainee's willingness to cooperate in the investigation or prosecution of others.
  - 7. The probable sentence or other consequences if the person is convicted.

Given the nature of these cases, other factors will also be significant in determining whether to recommend prosecution, including:

- 1. The need to protect classified information, including intelligence sources and methods.

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2. Any legal impediment to prosecution stemming from the past treatment of a detainee.

**IV. Recommendation to Seek Other Lawful Disposition**

Considerations with respect to recommendations of other lawful disposition will be reviewed in coordination with the Task Force on Detention Policy.

# EXHIBIT G

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Final Dispositions as of January 22, 2010

**Guantanamo Review Dispositions**

Country of Origin	ISN	Name	Decision
AF	4	Abdul Haq Wasiq	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
AF	6	Mullah Norullah Noori	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
AF	7	Mullah Mohammed Fazl	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
AF	560	Haji Wali Muhammed	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war, subject to further review by the Principals prior to the detainee's transfer to a detention facility in the United States.
AF	579	Khairullah Said Wali Khairkhwa	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
AF	753	Abdul Sahir	Referred for prosecution.
AF	762	Obaidullah	Referred for prosecution.
AF	782	Awal Gul	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
AF	832	Mohammad Nabi Omari	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
AF	850	Mohammed Hashim	Transfer to a country outside the United States that will implement appropriate security measures.
AF	899	Shawali Khan	Transfer to (b)(1) subject to appropriate security measures.
AF	900	Mohamed Jawad	Transfer to Afghanistan pursuant to a court order issued in the detainee's habeas case.
AF	928	Khi Ali Gul	Transfer to a country outside the United States that will implement appropriate security measures.
AF	934	Abdul Ghani	Transfer to (b)(1) subject to appropriate security measures. The Review Panel understands that (b) (5)
AF	944	Sharifullah	Transfer to a country outside the United States that will implement appropriate security measures.
AF	975	Karim Bostan	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war, subject to further review by the Principals prior to the detainee's transfer to a detention facility in the United States.
AF	1008	Mohammad Mustafa Sohail Bahazada	Transfer to a country outside the United States that will implement appropriate security measures.
AF	1030	Abdul Qawi	Transfer to a country outside the United States that will implement appropriate security measures.
AF	1045	Mohammed Kamin	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
AF	1103	Mohammed Zahir	Transfer to a country outside the United States that will implement appropriate security measures.
AF	1104	Mohammed Rahim	Transfer to a country outside the United States that will implement appropriate security measures.
AF	1119	Ahmid Al Razak	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war, subject to further review by the Principals prior to the detainee's transfer to a detention facility in the United States.
AF	3148	Haroon al-Afghani	Referred for prosecution.

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Guantanamo Review Dispositions

Country of Origin	ISN	Name	Decision
AF	10028	Inayatullah	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
AF	10029	Muhammad Rahim	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war, subject to further review by the Principals prior to the detainee's transfer to a detention facility in the United States.
AG	238	Nabil Said Hadjarab	Transfer outside the United States to a country that will implement appropriate security measures. The Review Panel recommends transfer to (b)(1)
AG	288	Mutia Sadiq Ahmad Sayyab	Transfer outside the United States to a country that will implement appropriate security measures. The Review Panel recommends transfer to (b)(1)
AG	290	Ahmed Bin Saleh Bel Bacha	Transfer outside the United States to a country that will implement appropriate security measures. The Review Panel recommends transfer to (b)(1)
AG	310	Djamel Saïid Ali Ameziane	Transfer outside the United States to a country that will implement appropriate security measures. The Review Panel recommends transfer to (b)(1)
AG	311	Saïid Farhi	Transfer outside the United States to a country that will implement appropriate security measures. The Review Panel recommends transfer to Algeria.
AG	533	Hasan Zamiri	Transfer to Algeria subject to appropriate security measures.
AG	685	Said bin Brahim bin Umran Bakush	Referred for prosecution.
AG	694	Sufyian Barhoumi	Referred for prosecution.
AG	744	Aziz Abdul Naji	Transfer outside the United States to a country that will implement appropriate security measures. The Review Panel recommends transfer to Algeria.
AG	1452	Adi Hadi al Jazairi Bin Hamlili	Transfer to Algeria subject to appropriate security measures.
AG	10001	Bensayah Belkecem	Transfer outside the United States to a country that will implement appropriate security measures. (b)(1) were specifically identified as the appropriate resettlement options.
AG	10002	Sabir Lahmar	Transfer outside the United States with appropriate security assurances (potential destination countries include (b)(1) .
AG	10005	Lakhdar Boumediene	Transfer outside the United States with appropriate security assurances (potential destination countries include (b)(1) .
AJ	89	Polad Sabir Oglu Sirajov	Transfer outside the United States to a country that will implement appropriate security measures.
CA	766	Omar Khadr	Referred for prosecution.
CD	269	Mohammed El Gharani	Transfer outside the United States with appropriate security assurances (potential destination countries include Chad).
CH	102	Nagid Mohammed	Transfer or release outside the United States.
CH	103	Arkin Mahmud	Transfer or release outside the United States.
CH	201	Ahmad Tourson	Transfer or release outside the United States.
CH	219	Abdul Razak	Transfer or release outside the United States.
CH	250	Hassan Anvar	Transfer or release outside the United States.
CH	275	Yousef Abbas	Transfer to the United States, or transfer or release outside the United States.
CH	277	Bahtiyar Mahnut	Transfer or release outside the United States.

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**Guantanamo Review Dispositions**

Country of Origin	ISN	Name	Decision
CH	278	Abdul Helil Mamut	Transfer to the United States, or transfer or release outside the United States.
CH	280	Saidullah Khalik	Transfer to the United States, or transfer or release outside the United States.
CH	281	Abdul Rahman	Transfer or release outside the United States.
CH	282	Hajiakbar Abdul Ghuper	Transfer to the United States, or transfer or release outside the United States.
CH	285	Jallal Adin Abd Al Rahman	Transfer to the United States, or transfer or release outside the United States.
CH	289	Dawut Abdurehim	Transfer to the United States, or transfer or release outside the United States.
CH	295	Eman Abdulahat	Transfer to the United States, or transfer or release outside the United States.
CH	320	Huzaifa Parhat	Transfer to the United States, or transfer or release outside the United States.
CH	328	Ahmed Mohamed Yaqub	Transfer or release outside the United States.
CH	584	Adel Noori	Transfer or release outside the United States.
EG	190	Sherif Fati Ali Al Mishad	Transfer outside the United States to a country that will implement appropriate security measures.
EG	369	Adel Fattough Ali Algazzar	Transfer outside the United States to a country that will implement appropriate security measures.
EG	535	Tariq Mahmoud Ahmed Al Sawah	Referred for prosecution.
ET	1458	Binyam Mohammed	Transfer to the United Kingdom.
GZ	10016	Zayn al-Ibidin Muhammed Husayn	Referred for prosecution.
ID	10019	Encep Nurjaman (Hambali)	Referred for prosecution.
IZ	433	Jawad Jabber Sadkhan	Transfer outside the United States to a country that will implement appropriate security measures. Possible destination countries include Iraq.
IZ	10026	Nashwan abd al-Razzaq abd al-Baqi (Hadi)	Referred for prosecution.
KE	10025	Mohammed Abdul Malik Bajabu	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
KU	213	Khalid Adullah Mijshad al-Mutayri	Transfer to a country outside the United States that will implement appropriate security measures. This decision is made in accordance with a court order in this detainee's habeas case. The Review Panel recommends transfer to Kuwait to (b) (5)
KU	232	Fawzi Khalid Abdullah Fahad Al Odah	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
KU	551	Fouad Mahmud Hasan Al Rabia	Pursuant to a court order in this detainee's habeas case and the government's decision not to appeal, transfer to a country outside the United States that will implement appropriate security measures.
KU	552	Faez Mohammed Ahmed Al-Kandari	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
KU	10024	Khalid Sheikh Mohammed	Referred for prosecution.
LE	722	Jihad Deyab	Transfer to a country outside the United States that will implement appropriate security measures.

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 Guantanamo Review Dispositions

Final Dispositions as of January 22, 2010

Country of Origin	ISN	Name	Decision
LY	189	Salem Abdu Salam Ghareby	Transfer to a country outside the United States that will implement appropriate security measures.
LY	263	Ashraf Salim Abd al-Salam Sultan	Transfer outside the United States to a country that will implement appropriate security measures.
LY	654	Abdul Hamid Salam Al-Ghizzawi	Transfer outside the United States to a country that will implement appropriate security measures.
LY	695	Omar Khalif Mohammed Abu Baker Mahjour Umar	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
LY	708	Ismael Ali Faraj Ali Bakush	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
LY	709	Abdul Rauf Omar Mohammad Abu Al-Quisin	Transfer outside the United States to a country that will implement appropriate security measures (including any necessary (b) (6) [REDACTED]).
LY	10017	Mustafa Faraj Muhammad Masud al-Jadid al-Uzaybi	Referred for prosecution.
MO	197	Younis Abdurrahman Chekkouri	Transfer to (b)(1) [REDACTED] subject to appropriate security measures, including (b)(1), (b)(5) [REDACTED]. The Review Panel notes that (b)(1), (b)(5) [REDACTED].
MO	244	Abdul Latif Nasir	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
MR	757	Ahmed Abdel Aziz	Transfer to (b)(1) [REDACTED] subject to appropriate security measures.
MR	760	Mohamedou Ould Slahi	Referred for prosecution.
MY	10021	Mohd Farik bin Amin	Referred for prosecution.
MY	10022	Bashir bin Lap	Referred for prosecution.
PK	1094	Saifullah Paracha	Referred for prosecution.
PK	1460	Abdul Rabbani	Referred for prosecution.
PK	1461	Mohammed Rabbani	Referred for prosecution.
PK	10018	Ali abd al Aziz Ali	Referred for prosecution.
PK	10020	Majid Khan	Referred for prosecution.
RS	702	Ravil Mingazov	Referred for prosecution.
SA	42	Abd Al Rahman Shalbi Isa Uwaydah	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
SA	49	Aasmi Matruq Mohammad Assami	Transfer outside the United States to a country that will implement appropriate security measures (including any necessary (b) (6) [REDACTED]).
SA	63	Mohamed Mani Ahmad al Kahtani	Referred for prosecution.
SA	195	Mohammed Abd Al Rahman Al Shumrant	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
SA	200	Saad Muhammad Husayn Qahtani	Transfer to (b)(1) [REDACTED] subject to appropriate security measures, including (b)(1), (b)(5) [REDACTED].
SA	239	Shaker Aamer	Transfer to (b)(1) [REDACTED] subject to appropriate security measures, including (b)(1), (b)(5) [REDACTED].

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**Guantanamo Review Dispositions**

Final Dispositions as of January 22, 2010

Country of Origin	ISN	Name	Decision
SA	331	Ayman Muhammad Ahmad Al Shurfa	Transfer outside the United States to a country that will implement appropriate security measures. The Review Panel recommends transfer to (b)(1), (b)(5)
SA	335	Khalid Muhammed	Transfer to Saudi Arabia (b) (5)
SA	669	Ahmed Zayid Salim Al Zuhayri	Transfer to Saudi Arabia subject to appropriate security measures and further disposition in accordance with Saudi law.
SA	682	Abdullah Al Sharbi	Referred for prosecution.
SA	687	Abdul Aziz Karim	Transfer to Saudi Arabia (b) (5)
SA	696	Jabran al Qahtani	Referred for prosecution.
SA	713	Mohammed Al Zahrani	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
SA	768	Ahmed Al-Darbi	Referred for prosecution.
SA	1456	Hassan Bin Attash	Referred for prosecution.
SA	10011	Mustafa Ahmad al Hawsawi	Referred for prosecution.
SA	10015	Mohammed al Nashiri	Referred for prosecution.
SO	567	Mohammad Sulayman Barre	Transfer to Somaliland subject to appropriate security measures.
SO	10023	Guleed Hassan Ahmed	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war, subject to further review by the Principals prior to the detainee's transfer to a detention facility in the United States.
SO	10027	Abdullahi Sudi Arale	Transfer to Somaliland subject to appropriate security measures.
SU	36	Ibrahim Othman Ibrahim Idris	Transfer to (b)(1) subject to appropriate security measures, including (b) (6)
SU	54	Mohammed Ahmed	Referred for prosecution.
SU	707	Noor Uthman Muhammed	Referred for prosecution.
SY	307	Abd-al-Nisr Khantumani	Transfer outside the United States to a country that will implement appropriate security measures.
SY	312	Muhammad Khantumani	Transfer outside the United States to a country that will implement appropriate security measures.
SY	317	Moammar Badawi Dokhan	Transfer outside the United States to a country that will implement appropriate security measures. Possible destination countries include (b)(1) or (b)(1)
SY	326	Ahmed Adnan Ahjam	Transfer to a country outside the United States that will implement appropriate security measures.
SY	327	Ali Hussein Muhammed Shaban	Transfer outside the United States to a country that will implement appropriate security measures.
SY	329	Abd Al Hadi Omar Mahmoud Faraj	Transfer to a country outside the United States that will implement appropriate security measures.
SY	330	Abdah Muhammad Masum	Transfer to a country outside the United States that will implement appropriate security measures.
SY	489	Abd Al Rahim Abdul Razaq Janko	Transfer outside the United States to a country that will implement appropriate security measures (possible destination countries include (b)(1) and (b)(1)



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Final Dispositions as of January 22, 2010

**Guantanamo Review Dispositions**

Country of Origin	ISN	Name	Decision
SY	537	Mahud Salem Al-Mohammed	Transfer to a country outside the United States that will implement appropriate security measures.
TI	257	Omar Hamzayavich Abdulayev	Transfer to Tajikistan subject to appropriate security measures.
TS	38	Ridah Bin Saleh al Yazidi	Transfer outside the United States to a country that will implement appropriate security measures.
TS	46	Saleh Bin Hadi Asasi	Transfer outside the United States to a country that will implement appropriate security measures.
TS	148	Adil Mabrouk Bin Hamida	Transfer outside the United States to a country that will implement appropriate security measures.
TS	168	Adel Al Hakeemy	Transfer to a country outside the United States that will implement appropriate security measures, including possible prosecution. The Review Panel notes that (b)(1) and (b)(5) [REDACTED].
TS	174	Hasham Bin Ali Omar Sliiti	Transfer outside the United States to a country that will implement appropriate security measures.
TS	502	Abdul Bin Mohammed Abis Ourgy	Transfer outside the United States to a country that will implement appropriate security measures.
TS	510	Barhumi Riyadh Bin Muhammad Tahir Bin Lakhdar Nasri	Transfer outside the United States to a country that will implement appropriate security measures. The Review Panel recommends that the detainee be transferred to (b)(1), (b)(5) [REDACTED].
TS	717	Hedi Ben Hedili Hammami	Transfer outside the United States to a country that will implement appropriate security measures.
TS	892	Rafiq Bin Bashir Bin Jalud Al Hami	Transfer outside the United States to a country that will implement appropriate security measures.
TS	894	Abdullah Bin Ali Al Lufti	Transfer outside the United States to a country that will implement appropriate security measures.
TZ	10012	Ahmed Ghailani	Referred for prosecution.
UAE	309	Mjuayn Al-Din Jamal Al-Din Abd Al Fadhil Abd Al-Sattar	Transfer to a country outside the United States that will implement appropriate security measures, including (b)(5) [REDACTED].
UZ	22	Shakhrukh Hamiduva	Transfer outside the United States to a country that will implement appropriate security measures (possible destination countries include (b)(1) [REDACTED]).
UZ	452	Oibek Jamaladinovich Jabarov	Transfer outside the United States to a country that will implement appropriate security measures (possible destination countries include (b)(1) [REDACTED]).
UZ	455	Alisheer Hammedulah	Transfer outside the United States to a country that will implement appropriate security measures (possible destination countries include (b)(1) [REDACTED]).
UZ	675	Kamalludin Kasimbekov	Transfer outside the United States to a country that will implement appropriate security measures (possible destination countries include (b)(1) [REDACTED]).
WE	519	Mahrar Rafat Al-Quwari	Transfer outside the United States to a country that will implement appropriate security measures.
WE	684	Mohammed Tahanmatan	Transfer outside the United States to a country that will implement appropriate security measures.

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**Guantanamo Review Dispositions**

Country of Origin	ISN	Name	Decision
YM	26	Fahed Abdullah Ahmad Ghazi	At this time, given the current security situation in Yemen, conditional detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war. Before the closure of Guantanamo, the detainee may be transferred if the security situation in Yemen improves, an appropriate rehabilitation program or third-country resettlement option becomes available, or Yemen has demonstrated its ability to (b) (5) or mitigate any threat they pose. At the time of the closure of Guantanamo, the detainee will be reconsidered for transfer to Yemen, a third country, or a detention facility in the United States.
YM	27	Uthman Abd al-Rahim Muhammad Uthman	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war, subject to further review by the Principals prior to the detainee's transfer to a detention facility in the United States.
YM	28	Moath Hamza Ahmed Al-Alwi	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
YM	29	Mohammed al-Ansi	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war, subject to further review by the Principals prior to the detainee's transfer to a detention facility in the United States.
YM	30	Ahmed Umar Abdullah al-Hikimi	At this time, given the current security situation in Yemen, conditional detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war. Before the closure of Guantanamo, the detainee may be transferred if the security situation in Yemen improves, an appropriate rehabilitation program or third-country resettlement option becomes available, or Yemen has demonstrated its ability to (b) (5) or mitigate any threat they pose. At the time of the closure of Guantanamo, the detainee will be reconsidered for transfer to Yemen, a third country, or a detention facility in the United States.
YM	31	Mahmud Abd Al Aziz Al Mujahid	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
YM	32	Faruq Ali Ahmed	Transfer to a country outside the United States that will implement appropriate security measures.
YM	33	Mohammed Al-Adahi	At this time, given the current security situation in Yemen, conditional detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war. Before the closure of Guantanamo, the detainee may be transferred if the security situation in Yemen improves, an appropriate rehabilitation program or third-country resettlement option becomes available, or Yemen has demonstrated its ability to (b) (5) or mitigate any threat they pose. At the time of the closure of Guantanamo, the detainee will be reconsidered for transfer to Yemen, a third country, or a detention facility in the United States.
YM	34	Al Khadr Abdallah Muhammad Al Yafi	Transfer to a country outside the United States that will implement appropriate security measures.
YM	35	Idris Ahmad Abd Al Qadir Idris	Transfer to a country outside the United States that will implement appropriate security measures.
YM	37	Abdel Malik Ahmed Abdel Wahab Al Rahabi	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.

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**Guantanamo Review Dispositions**

Country of Origin	ISN	Name	Decision
YM	40	Abdel Qadir Al-Mudafari	At this time, given the current security situation in Yemen, conditional detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war. Before the closure of Guantanamo, the detainee may be transferred if the security situation in Yemen improves, an appropriate rehabilitation program or third-country resettlement option becomes available, or Yemen has demonstrated its ability to (b) (5) or mitigate any threat they pose. At the time of the closure of Guantanamo, the detainee will be reconsidered for transfer to Yemen, a third country, or a detention facility in the United States.
YM	41	Majid Mahmud Abdu Ahmed	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
YM	43	Samir Naji Al Hasan Moqbil	At this time, given the current security situation in Yemen, conditional detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war. Before the closure of Guantanamo, the detainee may be transferred if the security situation in Yemen improves, an appropriate rehabilitation program or third-country resettlement option becomes available, or Yemen has demonstrated its ability to (b) (5) or mitigate any threat they pose. At the time of the closure of Guantanamo, the detainee will be reconsidered for transfer to Yemen, a third country, or a detention facility in the United States.
YM	44	Muhammed Rajab Sadiq Abu Ghanim	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
YM	45	Ali Ahmad al-Rahizi	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war, subject to further review by the Principals prior to the detainee's transfer to a detention facility in the United States.
YM	88	Adham Mohamed Ali Awad	At this time, given the current security situation in Yemen, conditional detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war. Before the closure of Guantanamo, the detainee may be transferred if the security situation in Yemen improves, an appropriate rehabilitation program or third-country resettlement option becomes available, or Yemen has demonstrated its ability to (b) (5) or mitigate any threat they pose. At the time of the closure of Guantanamo, the detainee will be reconsidered for transfer to Yemen, a third country, or a detention facility in the United States.
YM	91	Abdel Al Saleh	At this time, given the current security situation in Yemen, conditional detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war. Before the closure of Guantanamo, the detainee may be transferred if the security situation in Yemen improves, an appropriate rehabilitation program or third-country resettlement option becomes available, or Yemen has demonstrated its ability to (b) (5) or mitigate any threat they pose. At the time of the closure of Guantanamo, the detainee will be reconsidered for transfer to Yemen, a third country, or a detention facility in the United States.

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Country of Origin	ISN	Name	Decision
YM	115	Abdul Rahman Mohammed Saleh Nasir	At this time, given the current security situation in Yemen, conditional detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war. Before the closure of Guantanamo, the detainee may be transferred if the security situation in Yemen improves, an appropriate rehabilitation program or third-country resettlement option becomes available, or Yemen has demonstrated its ability to (b) (5) or mitigate any threat they pose. At the time of the closure of Guantanamo, the detainee will be reconsidered for transfer to Yemen, a third country, or a detention facility in the United States.
YM	117	Mukhtar Anaje	At this time, given the current security situation in Yemen, conditional detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war. Before the closure of Guantanamo, the detainee may be transferred if the security situation in Yemen improves, an appropriate rehabilitation program or third-country resettlement option becomes available, or Yemen has demonstrated its ability to (b) (5) or mitigate any threat they pose. At the time of the closure of Guantanamo, the detainee will be reconsidered for transfer to Yemen, a third country, or a detention facility in the United States.
YM	128	Ghaleb Nassar Al Bihani	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
YM	131	Salem Ahmad Hadi Bin Kanad	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
YM	152	Asim Thahit Abdullah Al-Khalaqi	Transfer to a country outside the United States that will implement appropriate security measures.
YM	153	Fayiz Ahmad Yahia Suleiman	Transfer to a country outside the United States that will implement appropriate security measures.
YM	156	Adnan Farhan Abd Al-Latif	Transfer to a country outside the United States that will implement appropriate security measures, taking into account any necessary mental health treatment.
YM	163	Khalid Abd Al Jabbar Muhammad Uthman Al Qadasi	Transfer to a country outside the United States that will implement appropriate security measures.
YM	165	Adil Said Al Haj Ubayd Al-Busayss	At this time, given the current security situation in Yemen, conditional detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war. Before the closure of Guantanamo, the detainee may be transferred if the security situation in Yemen improves, an appropriate rehabilitation program or third-country resettlement option becomes available, or Yemen has demonstrated its ability to (b) (5) or mitigate any threat they pose. At the time of the closure of Guantanamo, the detainee will be reconsidered for transfer to Yemen, a third country, or a detention facility in the United States.
YM	167	Ali Yahya Mahdi	At this time, given the current security situation in Yemen, conditional detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war. Before the closure of Guantanamo, the detainee may be transferred if the security situation in Yemen improves, an appropriate rehabilitation program or third-country resettlement option becomes available, or Yemen has demonstrated its ability to (b) (5) or mitigate any threat they pose. At the time of the closure of Guantanamo, the detainee will be reconsidered for transfer to Yemen, a third country, or a detention facility in the United States.
YM	170	Sharaf Ahmad Muhammad Mas'ud	Transfer to a country outside the United States that will implement appropriate security measures.

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Country of Origin	ISN	Name	Decision
YM	171	Abu Bakr ibn Ali Muhammad al Ahdal	At this time, given the current security situation in Yemen, conditional detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war. Before the closure of Guantanamo, the detainee may be transferred if the security situation in Yemen improves, an appropriate rehabilitation program or third-country resettlement option becomes available, or Yemen has demonstrated its ability to (b) (5) or mitigate any threat they pose. At the time of the closure of Guantanamo, the detainee will be reconsidered for transfer to Yemen, a third country, or a detention facility in the United States.
YM	178	Tariq Ali Abdullah Ba Odah	At this time, given the current security situation in Yemen, conditional detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war. Before the closure of Guantanamo, the detainee may be transferred if the security situation in Yemen improves, an appropriate rehabilitation program or third-country resettlement option becomes available, or Yemen has demonstrated its ability to (b) (5) or mitigate any threat they pose. At the time of the closure of Guantanamo, the detainee will be reconsidered for transfer to Yemen, a third country, or a detention facility in the United States.
YM	202	Mahmoud Omar Muhammad Bin Atef	At this time, given the current security situation in Yemen, conditional detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war. Before the closure of Guantanamo, the detainee may be transferred if the security situation in Yemen improves, an appropriate rehabilitation program or third-country resettlement option becomes available, or Yemen has demonstrated its ability to (b) (5) or mitigate any threat they pose. At the time of the closure of Guantanamo, the detainee will be reconsidered for transfer to Yemen, a third country, or a detention facility in the United States.
YM	223	Abd al-Rahman Sulayman	At this time, given the current security situation in Yemen, conditional detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war. Before the closure of Guantanamo, the detainee may be transferred if the security situation in Yemen improves, an appropriate rehabilitation program or third-country resettlement option becomes available, or Yemen has demonstrated its ability to (b) (5) or mitigate any threat they pose. At the time of the closure of Guantanamo, the detainee will be reconsidered for transfer to Yemen, a third country, or a detention facility in the United States.
YM	224	Abd Al-Rahman Abdullah Ali Shabati	Transfer to a country outside the United States that will implement appropriate security measures.
YM	233	Abd al-Razaq Muhammed Salih	At this time, given the current security situation in Yemen, conditional detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war. Before the closure of Guantanamo, the detainee may be transferred if the security situation in Yemen improves, an appropriate rehabilitation program or third-country resettlement option becomes available, or Yemen has demonstrated its ability to (b) (5) or mitigate any threat they pose. At the time of the closure of Guantanamo, the detainee will be reconsidered for transfer to Yemen, a third country, or a detention facility in the United States.
YM	235	Saeed Ahmed Mohammed Abdullah Sarem Jarabh	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war, subject to further review by the Principals prior to the detainee's transfer to a detention facility in the United States.

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Country of Origin	ISN	Name	Decision
YM	240	Abdallah Yahya Yusif Al Shibli	At this time, given the current security situation in Yemen, conditional detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war. Before the closure of Guantanamo, the detainee may be transferred if the security situation in Yemen improves, an appropriate rehabilitation program or third-country resettlement option becomes available, or Yemen has demonstrated its ability to (b) (5) or mitigate any threat they pose. At the time of the closure of Guantanamo, the detainee will be reconsidered for transfer to Yemen, a third country, or a detention facility in the United States.
YM	242	Khalid Ahmed Qasim	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
YM	249	Muhammed Abdullah Al Hamiri	Transfer to a country outside the United States that will implement appropriate security measures.
YM	251	Muhammad Said Salim Bin Salman	At this time, given the current security situation in Yemen, conditional detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war. Before the closure of Guantanamo, the detainee may be transferred if the security situation in Yemen improves, an appropriate rehabilitation program or third-country resettlement option becomes available, or Yemen has demonstrated its ability to (b) (5) or mitigate any threat they pose. At the time of the closure of Guantanamo, the detainee will be reconsidered for transfer to Yemen, a third country, or a detention facility in the United States.
YM	252	Yasin Mohammed Basardah	Transfer outside the United States to a country where the (b) (5) can be mitigated. The Review Panel further recommends that appropriate agencies consider the detainee for transfer pursuant to programs designed to (b) (5)
YM	254	Muhammad Ali Husayn Khanayna	Transfer to a country outside the United States that will implement appropriate security measures.
YM	255	Said Muhammad Salih Hatim	Transfer to a country outside the United States that will implement appropriate security measures.
YM	256	Riyad Atiq Ali Abdu Al-Haj	Transfer to a country outside the United States that will implement appropriate security measures.
YM	259	Fadhel Hussein Saleh Hentif	Transfer to a country outside the United States that will implement appropriate security measures.
YM	321	Ahmed Yaslam Said Kuman	At this time, given the current security situation in Yemen, conditional detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war. Before the closure of Guantanamo, the detainee may be transferred if the security situation in Yemen improves, an appropriate rehabilitation program or third-country resettlement option becomes available, or Yemen has demonstrated its ability to (b) (5) or mitigate any threat they pose. At the time of the closure of Guantanamo, the detainee will be reconsidered for transfer to Yemen, a third country, or a detention facility in the United States.
YM	324	Mashur Abdullah Muqbil Ahmed Al-Sabri	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
YM	434	Mustafa Abd al-Qawi Abd al-Aziz al-Shamiri	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.

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Country of Origin	ISN	Name	Decision
YM	440	Muhammad Ali Abdallah Muhammad Bwazir	At this time, given the current security situation in Yemen, conditional detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war. Before the closure of Guantanamo, the detainee may be transferred if the security situation in Yemen improves, an appropriate rehabilitation program or third-country resettlement option becomes available, or Yemen has demonstrated its ability to (b) (5) or mitigate any threat they pose. At the time of the closure of Guantanamo, the detainee will be reconsidered for transfer to Yemen, a third country, or a detention facility in the United States.
YM	441	Abdul Rahman Ahmed	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
YM	461	Abd al Rahman al-Qyati	At this time, given the current security situation in Yemen, conditional detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war. Before the closure of Guantanamo, the detainee may be transferred if the security situation in Yemen improves, an appropriate rehabilitation program or third-country resettlement option becomes available, or Yemen has demonstrated its ability to (b) (5) or mitigate any threat they pose. At the time of the closure of Guantanamo, the detainee will be reconsidered for transfer to Yemen, a third country, or a detention facility in the United States.
YM	498	Mohammed Ahmen Said Haider	At this time, given the current security situation in Yemen, conditional detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war. Before the closure of Guantanamo, the detainee may be transferred if the security situation in Yemen improves, an appropriate rehabilitation program or third-country resettlement option becomes available, or Yemen has demonstrated its ability to (b) (5) or mitigate any threat they pose. At the time of the closure of Guantanamo, the detainee will be reconsidered for transfer to Yemen, a third country, or a detention facility in the United States.
YM	506	Mohammed Khalid Salih al-Dhuby	At this time, given the current security situation in Yemen, conditional detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war. Before the closure of Guantanamo, the detainee may be transferred if the security situation in Yemen improves, an appropriate rehabilitation program or third-country resettlement option becomes available, or Yemen has demonstrated its ability to (b) (5) or mitigate any threat they pose. At the time of the closure of Guantanamo, the detainee will be reconsidered for transfer to Yemen, a third country, or a detention facility in the United States.
YM	508	Salman Yahya Hassan Mohammad Rabe'i	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
YM	509	Mohammed Nasir Yahi Khussrof Kazaz	At this time, given the current security situation in Yemen, conditional detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war. Before the closure of Guantanamo, the detainee may be transferred if the security situation in Yemen improves, an appropriate rehabilitation program or third-country resettlement option becomes available, or Yemen has demonstrated its ability to (b) (5) or mitigate any threat they pose. At the time of the closure of Guantanamo, the detainee will be reconsidered for transfer to Yemen, a third country, or a detention facility in the United States.
YM	511	Sulaiman Awath Silaiman Bin Agell Al Nahdi	Transfer to a country outside the United States that will implement appropriate security measures.

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 Guantanamo Review Dispositions

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Country of Origin	ISN	Name	Decision
YM	522	Yassim Qasim Mohammed Ismail Qasim	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war, subject to further review by the Principals prior to the detainee's transfer to a detention facility in the United States.
YM	549	Umar Said Salim Al-Dini	At this time, given the current security situation in Yemen, conditional detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war. Before the closure of Guantanamo, the detainee may be transferred if the security situation in Yemen improves, an appropriate rehabilitation program or third-country resettlement option becomes available, or Yemen has demonstrated its ability to (b) (5) or mitigate any threat they pose. At the time of the closure of Guantanamo, the detainee will be reconsidered for transfer to Yemen, a third country, or a detention facility in the United States.
YM	550	Walid Said bin Said Zaid	At this time, given the current security situation in Yemen, conditional detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war. Before the closure of Guantanamo, the detainee may be transferred if the security situation in Yemen improves, an appropriate rehabilitation program or third-country resettlement option becomes available, or Yemen has demonstrated its ability to (b) (5) or mitigate any threat they pose. At the time of the closure of Guantanamo, the detainee will be reconsidered for transfer to Yemen, a third country, or a detention facility in the United States.
YM	553	Abdul Khaled Al-Baydani	Transfer to a country outside the United States that will implement appropriate security measures.
YM	554	Fahmi Salem Said Al-Asani	Transfer to a country outside the United States that will implement appropriate security measures.
YM	564	Jalal Salam Awad Awad	Transfer to a country outside the United States that will implement appropriate security measures.
YM	566	Mansour Mohamed Mutaya Ali	Transfer to a country outside the United States that will implement appropriate security measures.
YM	569	Suhayl Abdul Anam al Sharabi	Referred for prosecution.
YM	570	Sabri Muhammad Ibrahim al-Qurashi	Transfer to (b)(1) subject to appropriate security measures.
YM	572	Salah Mohammad Salih al-Dhabi	Transfer outside the United States to a country that will implement appropriate security measures.
YM	574	Hamood Abdulla Hamood	Transfer to (b)(1) subject to appropriate security measures, including participation in the (b)(1), (b)(5)
YM	575	Saa'd Nasser Moqbil al-Azani	Transfer to a country outside the United States that will implement appropriate security measures.
YM	576	Zahar Omar Hamis bin Hamdoun	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war, subject to further review by the Principals prior to the detainee's transfer to a detention facility in the United States.
YM	577	Jamal Muhammad Alwai	Transfer to a country outside the United States that will implement appropriate security measures.



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Country of Origin	ISN	Name	Decision
YM	578	Abdul al-Aziz Abduh Abdullah Ali Al Suwaydi	At this time, given the current security situation in Yemen, conditional detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war. Before the closure of Guantanamo, the detainee may be transferred if the security situation in Yemen improves, an appropriate rehabilitation program or third-country resettlement option becomes available, or Yemen has demonstrated its ability to (b) (5) or mitigate any threat they pose. At the time of the closure of Guantanamo, the detainee will be reconsidered for transfer to Yemen, a third country, or a detention facility in the United States.
YM	627	Ayman Saeed Abdullah Batarfi	Transfer to Yemen subject to appropriate security measures.
YM	679	Yasir Ahmad Ali Muhammad Taher	Transfer outside the United States to a country that will implement appropriate security measures. The Review Panel recommends transfer to (b)(1), (b)(5)
YM	680	Emad Abdallah Hassan	Transfer to a country outside the United States that will implement appropriate security measures.
YM	681	Mohammed Mohammed Hasan Al Odaini	Transfer to a country outside the United States that will implement appropriate security measures.
YM	683	Fayyad Yahya Ahmed al Rami	Transfer to a country outside the United States that will implement appropriate security measures.
YM	686	Abdel Ghaib Ahmad Hakim	Transfer to a country outside the United States that will implement appropriate security measures.
YM	688	Fahmi Abdullah Ahmed al-Tawlaqi	At this time, given the current security situation in Yemen, conditional detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war. Before the closure of Guantanamo, the detainee may be transferred if the security situation in Yemen improves, an appropriate rehabilitation program or third-country resettlement option becomes available, or Yemen has demonstrated its ability to (b) (5) or mitigate any threat they pose. At the time of the closure of Guantanamo, the detainee will be reconsidered for transfer to Yemen, a third country, or a detention facility in the United States.
YM	689	Mohammed Ahmed Salam	Transfer to a country outside the United States that will implement appropriate security measures.
YM	690	Abdul Al Qader Ahmed Hassain	Transfer to a country outside the United States that will implement appropriate security measures.
YM	691	Muhammad Ali Salem Al Zarnuki	Transfer to a country outside the United States that will implement appropriate security measures.
YM	692	Alla Ali Bin Ali Ahmed	Transfer outside the United States to a country that will implement appropriate security measures. The Review Panel recommends the detainee be transferred to (b)(1), (b)(5)
YM	728	Abdul Muhammad Nassir al-Muhajari	At this time, given the current security situation in Yemen, conditional detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war. Before the closure of Guantanamo, the detainee may be transferred if the security situation in Yemen improves, an appropriate rehabilitation program or third-country resettlement option becomes available, or Yemen has demonstrated its ability to (b) (5) or mitigate any threat they pose. At the time of the closure of Guantanamo, the detainee will be reconsidered for transfer to Yemen, a third country, or a detention facility in the United States.

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Country of Origin	ISN	Name	Decision
YM	836	Ayub Murshid Ali Salih	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
YM	837	Bashir Nasir Ali Al-Marwalah	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
YM	838	Shawqi Awad Balzuhair	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
YM	839	Musab Omar Ali Al-Mudwani	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
YM	840	Hail Aziz Ahmed Al-Maythali	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
YM	841	Said Salih Said Nashir	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war.
YM	893	Tawfiq Nasir Awad Al-Bihani	At this time, given the current security situation in Yemen, conditional detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war. Before the closure of Guantanamo, the detainee may be transferred if the security situation in Yemen improves, an appropriate rehabilitation program or third-country resettlement option becomes available, or Yemen has demonstrated its ability to (b) (5) or mitigate any threat they pose. At the time of the closure of Guantanamo, the detainee will be reconsidered for transfer to Yemen, a third country, or a detention facility in the United States.
YM	1015	Husayn Salim Muhammad al-Matari Yafai	Transfer to a country outside the United States that will implement appropriate security measures, taking into account any necessary (b) (5)
YM	1017	Omar Mohammed Ali Al-Rammah	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war, subject to further review by the Principals prior to the detainee's transfer to a detention facility in the United States.
YM	1453	Sanad Al Kazimi	Referred for prosecution.
YM	1457	Sharqawi Abdu Ali Al Hajj	Referred for prosecution.
YM	1463	Abd Al-Salam Al-Hifah	Continued detention pursuant to the Authorization for Use of Military Force (2001), as informed by principles of the laws of war, subject to further review by the Principals prior to the detainee's transfer to a detention facility in the United States.
YM	10013	Ramzi Bin Al Shibh	Referred for prosecution.
YM	10014	Walid Mohammed Bin Attash	Referred for prosecution.

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# EXHIBIT H

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Identifier (Unclassified)	Document Description (Unclassified)	Pages (Unclassified)	Exemption 1 (Unclassified)	Exemption 3 (Unclassified)	Exemption 5 (Unclassified)	Exemption 6 (Unclassified)	Exemption 7 (Unclassified)	Other Applicable Exemptions (Information in this column is classified TS//SI//ORCON//NF)
Abdul Al Qader Ahmed Hassain ISN: YM-690	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	17	DOD: 1.4 (c),(g) (WIP)  FBI: 1.4 (b),(c),(d) (WIP)	DOD: 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(D),(E) (WIP)	
Mohammed Ahmed Salam ISN: YM- 689	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	9	DOD: 1.4 (b), (c),(d), (g) (WIP)  FBI: 1.4 (c),(d) (WIP)	DOD: 50 U.S.C. § 3024(i)(1); 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(D),(E) (WIP)	
Fahmi Abdullah Ahmed al- Tawlaqi ISN: YM-688	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	14	DOD: 1.4 (c),(g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Abdul Aziz Karim ISN: SA-687	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	6	DOD: 1.4(a), (g) (WIP)  FBI: 1.4 (b),(c) (WIP)	DOD: 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	

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Abdel Ghaib Ahmad Hakim ISN: YM-686	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	9	DOD: 1.4(c),(g)(WIP)  DOS: 1.4 (c ), (d) (WIP) FBI: 1.4 (c) (WIP)		DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Said bin Brahim bin Umran Bakush ISN: AG-685	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	5	DOD: 1.4(c) (WIP)		DOJ: DPP (WIF)			
Mohammed Tahanmatan ISN: WE-684	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	11	DOD: 1.4 (a), (b), (c), (d), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Muhammad Ali Salem Al Zarnuki ISN: YM-691	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	13	DOD: 1.4 (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Omar Khalif Mohammed Abu Baker Mahjour Umar ISN: LY 695	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	8	DOD: 1.4 (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C),(E) (WIP)	

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Fayyad Yahya Ahmed al Rami ISN: YM-683	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	16	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1); 10 USC § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(D),(E) (WIP)
Emad Abdallah Hassan ISN: YM-680	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	13	DOD: 1.4 (c)(WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOJ (WIP)  DOD (WIP)  FBI (WIP)	DOJ: (7)(C)(WIP)  FBI: (7)(C),(E) (WIP)
Khairullah Said Wali Khairkhwa ISN: AF-579	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	8	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C) (WIP)
Abdul Hamid Salam Al- Ghizzawi ISN: LY-654	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	9	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 10 U.S.C. § 424  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)
Abdul al-Aziz Abduh Abdullah Ali Al Suwaydi ISN: YM-578	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	10	DOD: 1.4 (c) (WIP)		DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C),(E) (WIP)

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Jamal Muhammad Alwai ISN: YM-577	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	12	DOD: 1.4 (a), (b), (c), (d), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C),(E) (WIP)
Zahar Omar Hamis bin Hamdoun ISN: YM-576	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	9	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)
Saa'd Nasser Moqbil al-Azani ISN: YM-575	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	8	DOD: 1.4 (a), (b), (c), (d) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)
Hamood Abdulla Hamood ISN: YM-574	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	13	DOD: 1.4 (a), (c) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)
Salah Mohammad Salih al-Dhabi ISN: YM-572	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	9	DOD: 1.4 (b), (c), (d) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 10 U.S.C. 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)

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Sabri Muhammad Ibrahim al-Qurashi ISN: YM-570	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	9	DOD: 1.4 (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Mohammad Sulayman Barre ISN: SO-567	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	11	DOD: 1.4 (a), (c) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Mansour Mohamed Mutaya Ali ISN: YM-566	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	6	DOD: 1.4 (a), (b), (c), (d) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C) (WIP)	
Jalal Salam Awad ISN: YM-564	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	8	DOD: 1.4 (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 10 U.S.C. § 424  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Haji Wali Muhammed ISN: AF-560	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	11	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	

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Abdel Al Saleh ISN: YM-91	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	7	DOD: 1.4 (b), (c), (d) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(D),(E) (WIP)
Polad Sabir Oglu Sirajov ISN: AJ-89	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	7	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C) (WIP)
Aasmi Matruq Mohammad Assami ISN: SA-49	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	8	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)
Muhammed Rajab Sadiq Abu Ghanim ISN: YM-44	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	11	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1), 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)
Samir Naji Al Hasan Moqbil ISN: YM-43	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	8	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)

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Abd Al Rahman Shalbi Isa Uwaydah ISN: SA-42	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	10	DOD: 1.4 (b), (c), (d), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)
Abdel Qadir Al-Mudafari ISN: YM-40	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	7	DOD: 1.4 (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)
Majid Mahmud Abdu Ahmed ISN: YM-41	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	10	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)
Abd Al-Salam Al-Hilah ISN: YM-1463	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	9	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(D),(E) (WIP)
Abdul Rahman Ahmed ISN: YM-441	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	11	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)

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Ahmed Yaslam Said Kuman ISN: YM-321	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	11	DOD: 1.4 (b), (c), (d), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1), 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C) (WIP)
Khalid Ahmed Qasim ISN: YM-242	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	9	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)
Abd al-Rahman Sulayman ISN: YM-223	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	9	DOD: 1.4 (c), (g) (WIP)  FBI: 1.4 (b),(c),(d) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(D),(E) (WIP)
Abu Bakr ibn Ali Muhammad al Ahdal ISN: YM-171	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	10	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C) (WIP)
Sharaf Ahmad Muhammad Mas'ud ISN: YM-170	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	8	DOD: 1.4 (b), (c), (d) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1), 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)

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Khalid Abd Al Jabbar Muhammad Uthman Al Qadasi ISN: YM-163	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	6	DOD: 1.4 (a), (c) (WIP)		DOJ: DPP (WIF)	DOD (WIP)	
Adham Mohamed Ali Awad ISN: YM-88	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	9	DOD: 1.4 (b), (c), (d) (WIP) FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP) FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP) FBI (WIP)	FBI: (7)(C),(E) (WIP)
Abdel Malik Ahmed Abdel Wahab Al Rahabi ISN: YM-37	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	8	DOD: 1.4 (a), (c), (g) (WIP) FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP) FBI (WIP)	FBI: (7)(C) (WIP)
Ibrahim Othman Ibrahim Idris ISN: SU-36	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	11	DOD: 1.4 (a), (c) (WIP) FBI: 1.4 (b),(c),(d) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP) FBI (WIP)	FBI: (7)(C),(D),(E) (WIP)
Ahmed Umar Abdullah al-Hikimi ISN: YM-30	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	12	DOD: 1.4 (a), (c), (g) (WIP) FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C),(E) (WIP)

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Mohammed al-Ansi ISN: YM-29	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	9	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(D),(E) (WIP)
Moath Hamza Ahmed Al-Alwi ISN: YM-28	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	10	DOD: 1.4 (a), (c) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)
Uthman Abd al-Rahim Muhammad Uthman ISN: YM-27	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	8	DOD: 1.4 (a), (c) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(D),(E) (WIP)
Al Khadr Abdallah Muhammad Al Yafi ISN: YM-34	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	9	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(D),(E) (WIP)
Mohammed Al-Adahi ISN: YM-33	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	9	DOD: 1.4 (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)

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Faruq Ali Ahmed ISN: YM-32	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	8	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)
Abdul Haq Wasiq ISN: AF-04	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	15	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)
Mullah Norullah Noori ISN: AF-06	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	11	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(D),(E) (WIP)
Mullah Mohammed Fazl ISN: AF-07	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	12	DOD: 1.4 (a), (c) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(D),(E) (WIP)
Fahed Abdullah Ahmad Ghazi ISN: YM-26	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	6	DOD: 1.4 (c)(WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)

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Mahmud Abd Al Aziz Al Mujahid ISN: YM-31	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	6	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 10 U.S.C. § 130b (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C) (WIP)
Tawfiq Nasir Awad Al-Bihani ISN: YM-893	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	11	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)
Abdul Qawi ISN: AF-1030	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	8	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C),(E) (WIP)
Mohammed Kamin ISN: AF-1045	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	5	DOD: 1.4 (a), (c), (g) (WIP)		DOJ: DPP (WIF)		
Mohammed Zahir ISN: AF-1103	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	13	DOD: 1.4 (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)

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Awal Gul ISN: AF-782	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	13	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C) (WIP)	
Mohammad Nabi Omari ISN: AF-832	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	7	DOD: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)		
Mohammed Abdul Malik Bajabu ISN: KE-10025	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	8	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Inayatullah ISN: AF-10028	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	6	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	

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Sulaiman Awath Silaiman Bin Agell Al Nahdi ISN: YM-511	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	9	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Mohammed Nasir Yah Khusrof Kazaz ISN: YM-509	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	7	DOD: 1.4 (a), (b), (c), (d), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1), 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Salman Yahya Hassan Mohammad Rabei'i ISN: YM-508	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	9	DOD: 1.4 (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Mohammed Khalid Salih al- Dhuby ISN: YM-506	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	6	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	

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Hasan Zamiri ISN: AG-533	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	6	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C)(WIP)	
Yassim Qasim Mohammed Ismail Qasim ISN: YM-522	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	8	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Mahrar Rafat Al- Quwari ISN: WE-519	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	4	DOD: 1.4 (a) (WIP)		DOJ: DPP (WIF)	DOD (WIP)		
Fahmi Salem Said Al-Asani ISN: YM- 554	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	5	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C) (WIP)	

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Abdul Khaled Al-Baydani ISN: SA- 553	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	6	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Faez Mohammed Ahmed Al-Kandari ISN: KU-552	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	10	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C) (WIP)	
Fouad Mahmud Hasan Al Rabia ISN: KU-551	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	16	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Walid Said bin Said Zaid ISN: YM-550	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	7	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1); 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C) (WIP)	

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Umar Said Salim Al-Dini ISN: YM-549	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	6	DOD: 1.4 (a), (b), (c), (d) (WIP)	DOD: 10 U.S.C. § 424 (WIP)	DOJ: DPP (WIF)	DOD (WIP)		
Mohammed Hashim ISN: AF-850	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	6	DOD: 1.4 (a), (c) (WIP) FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP) FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Husayn Salim Muhammad al-Matari Yafai ISN: YM-1015	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	6	DOD: 1.4 (a), (c), (g) (WIP) FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP) FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Mohammad Mustafa Sohail Bahazada ISN: AF-1008	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	9	DOD: 1.4 (a), (b), (c), (d) (WIP) FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP) FBI (WIP)	FBI: (7)(C),(D) (WIP)	

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Karim Bostan ISN: AF-975	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	18	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Sharifullah ISN: AF-944	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	15	DOD: 1.4 (a), (c), (g) (WIP)		DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C) (WIP)	
Abdul Ghani ISN: AF-934	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	6	DOD: 1.4 (a), (c), (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Khi Ali Gul ISN: AF-928	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	9	DOJ  DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C) (WIP)	

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Shawali Khan ISN: AF-899	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	11	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C) (WIP)	
Ahmid Al Razak ISN: AF-1119	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	11	DOD: 1.4 (b), (c), (d) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Mohammed Rahim ISN: AF-1104	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	11	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C) (WIP)	
Haroon al-Afghani ISN: AF-3148	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	9	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	

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Mjuayn Al-Din Jamal Al-Din Abd Al Fadhil Abd Al- Sattar ISN: UAE- 309	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	8	DOD: 1.4 (a), (b), (c), (d), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)
Fadhel Hussein Saleh Hentif ISN: YM-259	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	5	DOD: 1.4 (b), (c), (d) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1); 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)
Riyad Atiq Ali Abdu Al-Haj ISN: YM-256	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	7	DOD: 1.4 (a), (c), (g) (WIP)  FBI:1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)
Said Muhammad Salih Hatim ISN: YM-255	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	7	DOD: 1.4 (a), (c), (g) (WIP)  FBI:1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C) (WIP)

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Muhammad Ali Husayn Khanayna ISN: YM-254	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	6	DOD: 1.4 (a), (c), (g) (WIP)  FBI:1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Muhammad Said Salim Bin Salman ISN: YM-251	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	5	DOD: 1.4 (a), (c) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C) (WIP)	
Mohammed Ahmen Said Haider ISN: YM-498	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	9	DOD: 1.4 (a), (b), (c), (d), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Abd al Rahman al Qyati ISN: YM-461	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	4	DOD: 1.4 (a), (c), (g) (WIP)  FBI:1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI(WIP)	FBI: (7)(C) (WIP)	

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Muhammad Ali Abdallah Muhammad Bwazir ISN: YM-440	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	13	DOD: 1.4 (a), (c) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI(WIP)	FBI: (7)(C) (WIP)	
Mustafa Abd al-Qawi Abd al-Aziz al-Shamiri ISN: YM-434	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	6	DOD: 1.4 (b), (c), (d) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI(WIP)	FBI: (7)(C),(E) (WIP)	
Adel Fattough Ali Algazzar ISN: EG-369	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	8	DOD: 1.4 (a), (c), (g) (WIP)  FBI:1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI(WIP)	FBI: (7)(C),(E) (WIP)	
Ayman Muhammad Ahmad Al Shurfa ISN: SA-331	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	5	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI(WIP)	FBI: (7)(C) (WIP)	

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Abdah Muhammad Masum ISN: SY-330	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	7	DOD: 1.4 (a), (c), (g) (WIP)  FBI:1.4 (c) (WIP)	DOD: 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C) (WIP)
Abd Al Hadi Omar Mahmoud Faraj ISN: SY-329	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	9	DOD: 1.4 (a), (c) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)
Ali Hussein Muhammed Shaban ISN: SY-327	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	11	DOD: 1.4 (a), (c), (g) (WIP)  FBI:1.4 (c) (WIP)	DOD: 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)
Ahmed Adnan Ahjam ISN: SY-326	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	8	DOD: 1.4 (a), (c), (g) (WIP)  FBI:1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)

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Mashur Abdullah Muqbil Ahmed Al-Sabri ISN: YM-324	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	9	DOD: 1.4 (a), (b), (c), (d) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Muhammed Abdullah Al Hamiri ISN: YM-249	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	5	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Abdul Latif Nasir ISN: MO-244	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	9	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C) (WIP)	
Abdallah Yahya Yusuf Al Shibli ISN: YM-240	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	6	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1); 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	

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Shaker Aamer ISN: SA-239	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	7	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Saeed Ahmed Mohammed Abdullah Sarem Jarabh ISN: YM-235	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	9	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1); 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI(WIP)	FBI: (7)(C),(E) (WIP)	
Abd al-Razaq Muhammed Salih ISN: YM-233	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	8	DOD: 1.4 (a), (c) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C) (WIP)	
Abd Al-Rahman Abdullah Ali Shabati ISN: YM-224	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	7	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C),(E) (WIP)	

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Khalid Adullah Mijshad al-Mutayri ISN: KU-213	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	10	DOD: 1.4 (a), (b), (c), (d) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1); 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Mahmoud Omar Muhammad Bin Atef ISN: YM-202	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	6	DOD: 1.4 (a), (b), (c), (d), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Saad Muhammad Husayn Qahtani ISN: SA-200	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	8	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1); 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI(WIP)	FBI: (7)(C),(E) (WIP)	
Mohammed Abd Al Rahman Al Shumrant ISN: SA-195	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	12	DOD: 1.4 (a), (b), (c), (d), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1); 10 U.S.C. 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	

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Sherif Fati Ali Al Mishad ISN: EG-190	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	5	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI(WIP)	FBI: (7)(C) (WIP)
Salem Abdu Salam Ghereby ISN: LY-189	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	11	DOD: 1.4 (a), (b), (c), (d), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)
Tariq Ali Abdullah Ba Odah ISN: YM-178	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	8	DOD: 1.4 (a), (c), (g) (WIP)  FBI:1.4 (c) (WIP)	DOD: 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)
Adel Al Hakeemy ISN: TS-168	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	8	DOD: 1.4 (a), (c) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)

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Ali Yahya Mahdi ISN: YM-167	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	9	DOD: 1.4 (a), (b), (c), (d), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1); 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Adil Said Al Haj Ubayd Al-Busayss ISN: YM-165	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	5	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Adnan Farhan Abd Al-Latif ISN: YM- 156	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	8	DOD: 1.4 (a), (c), (g) (WIP)  FBI:1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Ahmed Abdel Aziz ISN: MR-757	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	14	DOD: 1.4 (a), (b), (c), (d), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	

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Abdul Muhammad Nassir al-Muhajari ISN: YM-728	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	7	DOD: 1.4 (a), (b), (c), (d), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C) (WIP)	
Jihad Deyab ISN: LE-722	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	6	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI(WIP)	FBI: (7)(C),(E) (WIP)	
Mohammed Al Zahrani ISN: SA-713	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	6	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C) (WIP)	
Fayiz Ahmad Yahia Suleiman ISN: YM-153	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	10	DOD: 1.4 (a), (b), (c), (d), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	

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Asim Thahit Abdullah Al- Khalaqi ISN: YM-152	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	7	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C),(E) (WIP)
Salem Ahmad Hadi Bin Kanad ISN: YM-131	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	11	DOD: 1.4 (a), (b), (c), (d), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)
Ghaleb Nassar Al Bihani ISN: YM-128	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	10	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C),(D),(E) (WIP)
Mukhtar Anaje ISN: YM-117	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	12	DOD: 1.4 (b), (c), (d) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)

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Abdul Rahman Mohammed Saleh Nasir ISN: YM-115	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	8	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Abdul Rauf Omar Mohammad Abu Al-Quisin ISN: LY-709	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	7	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Ismael Ali Faraj Ali Bakush ISN: LY-708	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	8	DOD: 1.4 (a), (c), (g) (WIP)		DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C) (WIP)	
Shakhrukh Hamiduva ISN: UZ-22	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	5	FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C) (WIP)	

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Ahmed Zayid Salim Al Zuhayri ISN: SA-669	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	12	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI(WIP)	FBI: (7)(C) (WIP)
Nagid Mohammed ISN: CH-102	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	3	DOJ  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C) (WIP)
Arkin Mahmud ISN: CH-103	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	5	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C),(E) (WIP)
Adel Noori ISN: CH-584	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	3	DOD: 1.4 (c) (WIP)		DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C) (WIP)

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Kamalludin Kasimbekov ISN: UZ-675	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	5	DOD: 1.4 (b), (c), (d) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C) (WIP)
Aziz Abdul Naji ISN: AG-744	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	4	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1); 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C) (WIP)
Ahmad Tourson ISN: CH-201	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	3	DOJ  DOD: 1.4 (a), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C) (WIP)
Abdul Razak ISN: CH-219	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	3	DOD: 1.4 (a), (c), (g) (WIP)		DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C) (WIP)

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Huzaifa Parhat ISN: CH-320	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	3	DOD: 1.4 (b), (c), (d) (WIP)		DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C) (WIP)	
Nabil Said Hadjarab ISN: AG-238	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	4	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C) (WIP)	
Oibek Jamaladinovich Jabarov ISN: UZ-452	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	5	DOD: 1.4 (a), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI(WIP)	FBI: (7)(C) (WIP)	
Ahmed Mohamed Yaqub ISN: CH-328	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	3			DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C) (WIP)	
Alisheer Hammedulah ISN: UZ-455	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	5	FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C) (WIP)	

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Mohammed El Gharani ISN: CD-269	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	8	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C) (WIP)
Abd Al Rahim Abdul Razaq Janko ISN: SY-489	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	4	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C) (WIP)
Hassan Anvar ISN: CH-250	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	3			DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C) (WIP)
Yousef Abbas ISN: CH-275	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	2			DOJ: DPP (WIF)		

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Bahtiyar Mahnut ISN: CH-277	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	3	DOD: 1.4 (c) (WIP)		DOJ: DPP (WIF)	DOD (WIP) FBI (WIP)	FBI: (7)(C) (WIP)
Abdul Helil Mamut ISN: CH-278	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	4	DOD: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP) FBI (WIP)	FBI: (7)(C) (WIP)
Abdul Rahman ISN: CH-281	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	3	DOD: 1.4 (a), (c), (g) (WIP) FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C) (WIP)
Saidullah Khalik ISN: CH-280	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	3	DOD: 1.4 (a), (c) (WIP) FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C),(E) (WIP)
Hajiakbar Abdul Ghuper ISN: CH-282	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	3	DOD: 1.4 (c) (WIP) FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C),(E) (WIP)

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Ahmed Bin Saleh Bel Bacha ISN: AG-290	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	5	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1); 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C),(E) (WIP)
Jallal Adin Abd Al Rahman ISN: CH-285	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	3	DOD: 1.4 (a), (c) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C) (WIP)
Eman Abdulahat ISN: CH-295	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	3			DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C) (WIP)
Mutia Sadiq Ahmad Sayyab ISN: AG-288	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	6	DOD: 1.4 (b), (c), (d) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C) (WIP)
Saiid Farhi ISN: AG-311	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	4	DOD: 1.4 (a), (b), (c), (d), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C),(E) (WIP)

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Dawut Abdurehim ISN: CH-289	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	3	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C),(E) (WIP)
Sabir Lahmar ISN: AG-10002	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	5	DOD: 1.4 (c) (WIP)		DOJ: DPP (WIF)		
Djamel Saïid Ali Ameziane ISN: AG-310	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	4	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C),(E) (WIP)
Lakhdar Boumediene ISN: AG-10005	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	3	DOD: 1.4 (c) (WIP)		DOJ: DPP (WIF)		
Idris Ahmad Abd Al Qadir Idris ISN: YM-35	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	10	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)

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Fawzi Khalid Abdullah Fahad Al Odah ISN: KU-232	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	12	DOD: 1.4 (a), (b), (c), (d), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Ali Ahmad al-Rahizi ISN: YM-45	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	12	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Mohammed Mohammed Hasan Al Odaini ISN: YM-681	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	7	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C) (WIP)	
Omar Mohammed Ali Al-Rammah ISN: YM-1017	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	16	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	

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Younis Abdurrahman Chekkouri ISN: MO-197	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	12	DOD: 1.4 (b), (c), (d) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1); 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)
Abdullah Bin Ali Al Lufti ISN: TS-894	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	6	DOD: 1.4 (b), (c), (d) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C) (WIP)
Rafiq Bin Bashir Bin Jalud Al Hami ISN: TS-892	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	5	FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C) (WIP)
Barhumi Riyadh Bin Muhammad Tahir Bin Lakhdir Nasri ISN: TS-510	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	7	DOD: 1.4 (b), (c), (d) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1); 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C) (WIP)

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Abdul Bin Mohammed Abis Ourgy ISN: TS-502	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	7	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C) (WIP)
Hail Aziz Ahmed Al-Maythali ISN: YM-840	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	7	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C),(E) (WIP)
Musab Omar Ali Al-Mudwani ISN: YM-839	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	10	DOD: 1.4 (b), (c), (d) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)
Ayub Murshid Ali Salih ISN: YM-836	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	9	DOD: 1.4 (c) (WIP)		DOJ: DPP (WIF)		

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Sharqawi Abdu Ali Al Hajj ISN: YM-1457	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	5	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Bensayah Belkecem ISN: AG-10001	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	10	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Ridah Bin Saleh al Yazidi ISN: TS-38	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	10	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1); 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)	
Saleh Bin Hadi Asasi ISN: TS-46	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	5	DOD: 1.4 (a), (b), (c), (d), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C),(E) (WIP)	

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Suhayl Abdul Anam al Sharabi ISN: YM-569	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	6	DOD: 1.4 (a), (c), (g) (WIP)		DOJ: DPP (WIF)		
Ayman Saeed Abdullah Batarfi ISN: YM-627	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	5			DOJ: DPP (WIF)		
Yasir Ahmad Ali Muhammad Taher ISN: YM-679	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	13	DOD: 1.4 (a), (b), (c), (d), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)
Alla Ali Bin Ali Ahmed ISN: YM-692	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	7	DOD: 1.4 (a), (c) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C) (WIP)

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Jabran al Qahtani ISN: SA-696	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	5	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C) (WIP)	
Ravil Mingazov ISN: RS-702	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	8	DOD: 1.4 (b), (c), (d) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1); 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C) (WIP)	
Noor Uthman Muhammed ISN: SU-707	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	4	DOD: 1.4 (c) (WIP)		DOJ: DPP (WIF)	DOD (WIP)		
Adil Mabrouk Bin Hamida ISN: TS-148	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	8	DOD: 1.4 (b), (c), (d) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C) (WIP)	

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Hedi Ben Hedili Hammami ISN: TS-717	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	6	DOD: 1.4 (a), (c) (WIP)	DOD: 10 U.S.C. § 424 (WIP)	DOJ: DPP (WIF)	DOD (WIP)	
Abdul Sahir ISN: AF-753	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	6	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C) (WIP)
Hasham Bin Ali Omar Sliti ISN: TS-174	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	7	DOD: 1.4 (a), (b), (c), (d), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1); 10 U.S.C. § 424 (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C) (WIP)
Khalid Muhammed ISN: SA-335	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	3	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)
Jawad Jabber Sadkhan ISN: IZ-433	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	8	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c)(WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(D) (WIP)

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Yasin Mohammed Basardah ISN: YM-252	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	4	DOD: 1.4 (b), (c), (d) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C) (WIP)
Omar Hamzayavich Abdulayev ISN: TI-257	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	9	DOD: 1.4 (b), (c), (d) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C),(E) (WIP)
Ashraf Salim Abd al-Salam Sultan ISN: LY-263	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	6	DOD: 1.4 (b), (c), (d) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C) (WIP)
Abd-al-Nisr Khantumani ISN: SY-307	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	8	DOD: 1.4 (b), (c), (d) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C),(E) (WIP)
Muhammad Khantumani ISN: SY-312	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	9	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C),(E) (WIP)

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Moammar Badawi Dokhan ISN: SY-317	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	5	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C) (WIP)
Mustafa Faraj Muhammad Masud al-Jadid al-Uzaybi ISN: LY-10017	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	5	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C) (WIP)
Ali abd al Aziz Ali ISN: PK-10018	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	4	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	DOD: 7(A) (WIP)  FBI (7)(A),(B),(C) (WIP)
Guleed Hassan Ahmed ISN: SO-10023	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	9	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C) (WIP)
Mohamedou Ould Slahi ISN: MR-760	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	9	DOD: 1.4 (a), (b), (c), (d), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C) (WIP)

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Muhammad Rahim ISN: AF-10029	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	10	DOD: 1.4 (b), (c), (d) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C) (WIP)
Abdullahi Sudi Arale ISN: SO-10027	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	19	DOD: 1.4 (b), (c), (d) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C),(D),(E) (WIP)
Adi Hadi al Jazairi Bin Hamlili ISN: AG-1452	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	10	DOD: 1.4 (a), (c), (g) (WIP)		DOJ: DPP (WIF)	DOD (WIP)	
Mahud Salem Al-Mohammed ISN: SY-537	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	9	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	DOD: 50 U.S.C. § 3024(i)(1) (WIP)  FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C),(E) (WIP)

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Shawqi Awad Balzuhair ISN: YM-838	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	5	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	FBI: (7)(C) (WIP)
Bashir Nasir Ali Al-Marwalah ISN: YM-837	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	6	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C) (WIP)
Said Salih Said Nashir ISN: YM-841	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	8	DOD: 1.4 (c) (WIP)		DOJ: DPP (WIF)		
Ahmed Ghailani ISN: TZ-10012	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	4	FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C) (WIP)
Mustafa Ahmad al Hawsawi ISN: SA-10011	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	4	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	DOD: 7(A) (WIP)  FBI (7)(A),(B),(C) (WIP)

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Zayn al-Ibidin Muhammed Husayn ISN: GZ-10016	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	5	DOD: 1.4 (c) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI(WIP)	FBI: (7)(C) (WIP)
Mohammed al Nashiri ISN: SA-10015	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	8	DOD: 1.4 (a), (b), (c), (d), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	DOD: 7(A) (WIP)  FBI: (7)(A),(B),(C) (WIP)
Abdullah Al Sharbi ISN: SA-682	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	4	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	FBI: (7)(C) (WIP)
Sufyan Barhoumi ISN: AG-694	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	3			DOJ: DPP (WIF)	DOD (WIP)	
Abdul Rabbani ISN: PK-1460	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	6	DOD: 1.4 (a), (b), (c), (d), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)		DOD: 7(A) (WIP)

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Encep Nurjaman (Hambali) ISN: ID-10019	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	10	DOD: 1.4 (b), (c), (d) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI(WIP)	DOD: 7(A) (WIP)  FBI: (7)(C) (WIP)
Majid Khan ISN: PK-10020	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	8	DOD: 1.4 (a), (b), (c), (d), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	DOD: 7(A) (WIP)  FBI: (7)(C),(E) (WIP)
Mohammed Rabbani ISN: PK-1461	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	5	DOD: 1.4 (a), (b), (c), (d), (g) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	DOD: 7(A) (WIP)  FBI: 7(C) (WIP)
Khalid Sheikh Mohammed ISN: KU-10024	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	4	DOD: 1.4 (a), (c), (g) (WIP)  FBI: 1.4(c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI(WIP)	DOD: 7(A) (WIP)  FBI: 7(A),(B),(C)(WIP)

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Hassan Bin Attash ISN: SA-1456	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	4	DOD: 1.4 (b), (c), (d) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	DOD: 7(A) (WIP)  FBI: (7)(C) (WIP)
Sanad Al Kazimi ISN: YM-1453	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	7	DOD: 1.4 (a), (c), (g) (WIP)		DOJ: DPP (WIF)	DOD (WIP)	
Ramzi Bin Al Shibh ISN: YM-10013	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	4	DOD: 1.4 (b), (c), (d) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	DOD (WIP)  FBI (WIP)	DOD: 7(A) (WIP)  FBI: 7(A),(B),(C) (WIP)
Walid Mohammed Bin Attash ISN: YM-10014	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	4	DOD: 1.4 (b), (c), (d) (WIP)  FBI: 1.4(c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	DOD: 7(A) (WIP)  FBI: 7(A),(B),(C)(WIP)

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Bashir bin Lap ISN: MY-10022	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	5	DOD: 1.4 (b), (c), (d) (WIP)		DOJ: DPP (WIF)	DOD (WIP)	DOD: 7(A) (WIP)	
Mohd Farik bin Amin ISN: MY-10021	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	5	DOD: 1.4 (b), (c), (d) (WIP)  FBI: 1.4 (c) (WIP)	FBI: 50 U.S.C. § 3024(i)(1) (WIP)	DOJ: DPP (WIF)	FBI (WIP)	DOD: 7(A) (WIP)  FBI: 7(C),(E)(WIP)	
Mohamed Jawad ISN: AF-900	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	4	DOD: 1.4 (b), (c), (d) (WIP)		DOJ: DPP (WIF)	DOD (WIP)	DOD: 7(A) (WIP)	
Saifullah Paracha ISN: PK-1094	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	6	DOD: 1.4 (a), (c), (g) (WIP)		DOJ: DPP (WIF)	DOD (WIP)		

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Ahmed Al-Darbi ISN: SA-768	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	5	DOD: 1.4 (b), (c), (d)		DOJ: DPP (WIF)	DOD (WIP)	DOD: 7(A) (WIP)	
Omar Khadr ISN: CA-766	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	6	DOD: 1.4 (a), (b), (c), (d), (g) (WIP)		DOJ: DPP (WIF)	DOD (WIP)	DOD: 7(A) (WIP)	
Mohammed Ahmed ISN: SU-054	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	4	DOD: 1.4 (a), (b), (c), (d), (g) (WIP)		DOJ: DPP (WIF)		DOD: 7(A) (WIP)	
Mohamed Mani Ahmad al Kahtani ISN: SA-063	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	4	DOD: 1.4 (a), (b), (c), (d), (g) (WIP)		DOJ: DPP (WIF)	DOD (WIP)	DOD: 7(A) (WIP)	

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Tariq Mahmoud Ahmed Al Sawah ISN: EG-535	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	5			DOJ: DPP (WIF)	DOD (WIP)		
Obaidullah ISN: AF-762	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	4			DOJ: DPP (WIF)	DOD (WIP)		
Nashwan abd al-Razzaq abd al-Baqi (Hadi) ISN: IZ-10026	Cover Page of Guantanamo Review Task Force Evaluation Worksheet; Subsection of Evaluation Worksheet containing the Task Force's candid assessment of identifiable threat(s) potentially posed by detainee to the national security of the United States.	4			DOJ: DPP (WIF)	DOD (WIP)		

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UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

_____		)	
THE NEW YORK TIMES COMPANY and		)	
CHARLIE SAVAGE,		)	
		)	
Plaintiffs,		)	
		)	
v.		)	No. 16 Civ. 6120 (RMB)
		)	
U.S. DEPARTMENT OF JUSTICE,		)	
		)	
Defendant.		)	
_____		)	

**DECLARATION OF DAVID M. HARDY**

I, David M. Hardy, declare as follows:

(1) I am the Section Chief of the Record/Information Dissemination Section (“RIDS”), Records Management Division (“RMD”), in Winchester, Virginia. I have held this position since August 1, 2002. Prior to my joining the Federal Bureau of Investigation (“FBI”), from May 1, 2001 to July 31, 2002, I was the Assistant Judge Advocate General of the Navy for Civil Law. In that capacity, I had direct oversight of Freedom of Information Act (“FOIA”) policy, procedures, appeals, and litigation for the Navy. From October 1, 1980 to April 30, 2001, I served as a Navy Judge Advocate at various commands and routinely worked with FOIA matters. I am also an attorney who has been licensed to practice law in the State of Texas since 1980.

(2) In my official capacity as Section Chief of RIDS, I supervise approximately 251 employees who staff a total of ten (10) Federal Bureau of Investigation Headquarters (“FBIHQ”) units and two (2) field operational service center units whose collective mission is to effectively plan, develop, direct, and manage responses to requests for access to FBI records and information

pursuant to the FOIA as amended by the OPEN Government Act of 2007 and the OPEN FOIA Act of 2009; the Privacy Act of 1974; Executive Order 13526; Presidential, Attorney General, and FBI policies and procedures; judicial decisions; and Presidential and Congressional directives. My responsibilities also include the review of FBI information for classification purposes as mandated by Executive Order 13526, 75 Fed. Reg. 707 (2010), and the preparation of declarations in support of Exemption 1 claims asserted under the FOIA. I have been designated by the Attorney General of the United States as an original classification authority and a declassification authority pursuant to Executive Order 13526, §§ 1.3 and 3.1. The statements contained in this declaration are based upon my personal knowledge, upon information provided to me in my official capacity, and upon conclusions and determinations reached and made in accordance therewith.

(3) Due to the nature of my official duties, I am familiar with the procedures followed by the FBI in responding to consultations from other agencies pursuant to the provisions of the FOIA, 5 U.S.C. § 552, and the Privacy Act of 1974, 5 U.S.C. § 552a. Specifically, I am aware of the FBI's handling of the consultation request from DOJ in response to plaintiffs' FOIA ("FOIA") request to FBIHQ, seeking access to records concerning "the threat assessments of Guantanamo detainees produced by the six-agency executive task force appointed in 2009 to review each remaining prisoner".

(4) In response to DOJ's consultation request, the FBI reviewed approximately 1,824<sup>1</sup>

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<sup>1</sup> In the course of reviewing the records for the creation of its declaration and Vaughn Index, DOJ discovered that seven pages of non-responsive records had been inadvertently included in the original page count. *See* Decl. of Courtney J. O'Keefe ¶ 7 n.1. Accordingly, DOJ estimates that the total number of responsive pages is 1,817, not 1,824. *See id.*

responsive pages. I understand that DOJ has determined to withhold all pages in full pursuant to FOIA Exemption 5, a decision the FBI supports for the reasons provided in the DOJ Declaration of Courtney J. O'Keefe that is being submitted herewith. In accordance with *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), this declaration is being submitted in support of defendant DOJ's motion for summary judgment in order to provide the Court and plaintiffs with the FBI's justification for withholding its equities within the records pursuant to FOIA Exemptions 1, 3, 7(A), 7(B), (7)(C), (7)(D), and (7)(E).

**JUSTIFICATION FOR NONDISCLOSURE UNDER THE FOIA**

(5) All FBI equities located in the documents responsive to plaintiff's request were processed to achieve maximum disclosure consistent with the access provisions of the FOIA. Every effort was made to provide plaintiff with all material in the public domain and with all reasonably segregable, non-exempt information in the responsive records. No reasonably segregable, nonexempt portions were identified or withheld from plaintiffs. The exemptions asserted by the FBI as grounds for non-disclosure of portions of documents are FOIA Exemptions 1, 3, 7(A), 7(B), (7)(C), (7)(D), and (7)(E).

**Exemption 1 – Classified Information**

(6) The FBI withheld classified information contained in these documents based on the standards articulated in the FOIA statute, 5 U.S.C. § 552(b)(1). Exemption 1 protects from disclosure those records that are:

- (A) specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy; and
- (B) are in fact properly classified pursuant to such Executive Order.

The FBI's analysis of whether Exemption 1 permits the withholding of agency records consists of two significant steps. The FBI must first determine whether the information contained in the records qualifies for classification under the applicable Executive Order governing classification and protection of national security<sup>2</sup> information, and second whether the information actually has been classified in compliance with the various substantive and procedural criteria of the Executive Order. E.O. 13526 presently governs the classification and protection of information that affects the national security, and prescribes the various substantive and procedural criteria. I am bound by the requirements of E.O. 13526 when making classification determinations.

(7) For information to be properly classified, and thus properly withheld from disclosure pursuant to Exemption 1, the information must meet the requirements set forth in E.O. 13526 § 1.1(a):

- (1) an original classification authority must have classified the information;
- (2) the information must be owned by, produced by or for, or be under the control of the United States Government;
- (3) the information must fall within one or more of the categories of information listed in § 1.4 of this order; and
- (4) the original classification authority must determine that the unauthorized disclosure of the information reasonably could be expected to result in damage to the national security, which includes defense against transnational terrorism, and the original classification authority must be able to identify or describe the damage.

(8) In my capacity as an original classification authority, I have determined that the information withheld pursuant to Exemption 1 is under the control of the United States

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<sup>2</sup> Section 6.1 (cc) of E.O. 13526, § 6.1(cc) defines "National Security" as "the national defense or foreign relations of the United States."

Government, falls within applicable categories of E.O. 13526 §1.4, and requires a classification marking at the “Secret” level because the unauthorized disclosure of this information reasonably could be expected to cause serious damage to the national security. *See* E.O. 13526 §1.2(a)(2).

(9) In addition to these substantive requirements, certain procedural and administrative requirements of E.O. 13526 must be followed before information can be considered to be properly classified, such as proper identification and marking of documents. Accordingly, I made certain that all procedural requirements of E.O. 13526 were followed and specifically that:

- (a) each document was marked as required and stamped with the proper classification designation, *see* E.O. 13526 § 1.6(a)(1) – (5);
- (b) each document was marked to indicate clearly which portions are classified and which portions are exempt from declassification as set forth in E.O. 13526 § 1.5(b), *see* E.O. 13526, § 1.6(a)(5)(c);
- (c) the prohibitions and limitations on classification specified in E.O. 13526 §1.7 were adhered to;
- (d) the declassification policies set forth in E.O. 13526 §§ 3.1 and 3.3 were followed; and
- (e) any reasonably segregable portion of these classified documents that did not meet the standards for classification under E.O. 13526 were declassified and marked for release, unless withholding was otherwise warranted under applicable law.

**The Government’s Burden in Establishing the Applicability of Exemption 1**

(10) I examined the information withheld in this case pursuant to Exemption 1 in light of the body of information available to me concerning the national defense and foreign relations of the United States. This information was not examined in isolation. Instead, each piece of information was evaluated with careful consideration given to the impact that disclosure of this information will have on other sensitive information contained elsewhere. Equal consideration

was given to the impact that other information either in the public domain or likely known or suspected by present or potential adversaries of the United States would have upon the information I examined, and upon attempts by a hostile entity to analyze such information.

(11) In those instances where, in my judgment, the disclosure of this information could reasonably be expected to cause serious damage to the national security, and its withholding outweighed the benefit of disclosure, I exercised my prerogative as an original classification authority, designated that information as classified in the interest of national security, and invoked Exemption 1 of the FOIA to prevent disclosure. Likewise, the justifications for the withheld classified information were prepared with the intent that they be read with consideration given to the context in which the classified information is found. This context includes not only the surrounding unclassified information, but also other information already in the public domain, as well as information likely known or suspected by other hostile intelligence entities.

(12) It is my judgment that any greater specificity in the descriptions and justifications set forth with respect to information relating to foreign government relations or foreign activities and intelligence sources and methods of the United States could reasonably be expected to jeopardize the national security of the United States.<sup>3</sup> All information withheld pursuant to FOIA Exemption 1 has been appropriately classified pursuant to E.O. 13526.

**Exemption 1: E.O. 13526, § 1.4(b)-Foreign Government Information**

(13) FBI is withholding portions of the responsive records pursuant to Exemption 1 because they contain information the FBI received from one or more foreign governments. E.O. 13526, § 1.4(b) authorizes the classification of foreign government information. E.O. 13526, §

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<sup>3</sup> FBI will submit a separate *in camera, ex parte* declaration to further support its assertion of FOIA Exemptions 1, 3, and 7E.



6.1(s) defines foreign government information as: “(1) information provided to the United States Government by a foreign government or governments, an international organization of governments, or any element thereof, with the expectation that the information, the source of the information, or both, are to be held in confidence; (2) information produced by the United States Government pursuant to or as a result of a joint arrangement with a foreign government or governments, or an international organization of governments, or any element thereof, requiring that the information, the arrangement, or both, are to be held in confidence; or (3) information received and treated as ‘foreign government information’ under the terms of a predecessor order.”

(14) Many foreign governments do not officially acknowledge the existence of some of their intelligence and security services, or the scope of their activities or the sensitive information generated by them. The free exchange of information between United States intelligence and law enforcement services and their foreign counterparts is predicated upon the understanding that these liaisons, and information exchanged between them, must be kept in confidence.

(15) The release of official United States Government documents that show the existence of a confidential relationship with a foreign government reasonably could be expected to strain relations between the United States and the foreign governments and lead to diplomatic, political, or economic retaliations. A breach of this relationship can be expected to have at least a chilling effect on the free flow of vital information to the United States intelligence and law enforcement agencies, which may substantially reduce their effectiveness. Although the confidential relationship of the United States with certain countries may be widely reported, they are not officially acknowledged.

(16) Disclosure of such a relationship predictably will result in the careful analysis and possible compromise of the information by hostile intelligence services. The hostile service may be able to uncover friendly foreign intelligence gathering operations directed against it or its allies. This could lead to the neutralization of friendly allied intelligence activities or methods or the death of live sources, cause embarrassment to the supplier of the information, or result in economic or diplomatic retaliation against both the United States and the supplier of the information.

(17) Even if the government from which certain information is received is not named in or identifiable from the material it supplies, the danger remains that if the information were to be made public, the originating government would likely recognize the information as material it supplied in confidence. Thereafter, it would be reluctant to entrust the handling of its information to the discretion of the United States.

(18) The types of classified information provided by foreign government intelligence components can be categorized as: (a) information that identifies a named foreign government and detailed information provided by that foreign government; (b) documents received from a named foreign government intelligence agency and classified "Secret" by that agency; and (c) information that identifies by name, an intelligence component of a specific foreign government, an official of the foreign government, and information provided by that component official to the FBI.

(19) The cooperative exchange of intelligence information between the foreign governments and the FBI occurs with the express understanding that the information will be kept classified and not released to the public. Disclosure of the withheld information would violate the

FBI's promise of confidentiality. A breach could reasonably be expected to strain relations between the United States and the foreign governments, chill the free flow of vital information to the intelligence and law enforcement agencies, and cause serious damage to the national security and the war on transnational terrorism. This information, which is under the control of the United States Government, is properly classified at the "Secret" level and withheld pursuant to E.O. 13526, § 1.4(b), and is exempt from disclosure pursuant to Exemption 1.

**Exemption 1: E.O. 13526, § 1.4(c)—Intelligence Activities, Sources, and Methods**

(20) FBI is withholding portions of the responsive records pursuant to Exemption 1 because they contain information concerning the FBI's intelligence activities and methods. E.O. 13526, § 1.4(c) authorizes the classification of "intelligence activities (including covert action), intelligence sources or methods, and cryptology," in order to protect classified intelligence sources, methods, and activities utilized by the FBI for gathering intelligence data.

(21) An intelligence activity or method includes any intelligence action or technique utilized by the FBI against a targeted individual or organization that has been determined to be of national security interest. An intelligence method is used to indicate any procedure (human or non-human) utilized to obtain information concerning such individual or organization. An intelligence activity or method has two characteristics. First, the intelligence activity or method -- and information generated by it -- is needed by U. S. Intelligence/Counterintelligence agencies to carry out their missions. Second, confidentiality must be maintained with respect to the activity or method if the viability, productivity and usefulness of its information is to be preserved. Information was withheld pursuant to Exemption 1 to protect intelligence activities, sources, and

methods utilized by the FBI for gathering intelligence data.

(22) The classified material here would, if disclosed, reveal actual intelligence activities and methods used by the FBI against specific targets of foreign counterintelligence investigations or operations; identify a target of a foreign counterintelligence investigation; or disclose the intelligence-gathering capabilities of the activities or methods directed at specific targets. The information obtained from the intelligence activities or methods is very specific in nature, provided during a specific time period, and known to very few individuals.

(23) The FBI protected information under Exemption 1 and E.O. 13,526 § 1.4(c) because the information is classified and the release of such information could reasonably be expected to cause serious damage to the national security for the following reasons: (a) disclosure would allow hostile entities to discover the current intelligence-gathering methods used; (b) disclosure would reveal current specific targets of FBI's national security investigations; and (c) disclosure would reveal the determination of criteria used and priorities assigned to current intelligence or counterintelligence investigations. With the aid of this detailed information, hostile entities could develop countermeasures that could, in turn, severely disrupt the FBI's intelligence-gathering capabilities. This disruption could also result in severe damage to the FBI's efforts to detect and apprehend violators of national security and criminal laws of the United States. This information is currently and properly classified at the "Secret" level, in accordance with E.O. 13,526 § 1.4(c), and is exempt from disclosure pursuant to Exemption 1, asserted in conjunction with Exemption 3/National Security Act of 1947, 50 U.S.C. § 3024(i)(1) and/or Exemption 7(E), as explained below.

(24) The classified information withheld within these documents contains detailed

intelligence activity information gathered or compiled by the FBI on a specific individual or organization of national security interest. The disclosure of this information could reasonably be expected to cause serious damage to the national security, as it would: (a) reveal the actual intelligence activity or method utilized by the FBI against a specific target; (b) disclose the intelligence-gathering capabilities of the method; and (c) provide an assessment of the intelligence source penetration of a specific target during a specific period of time. This information is properly classified at the "Secret" level and withheld pursuant to E.O. 13,526 § 1.4(c), and is exempt from disclosure pursuant to Exemption 1.

(25) It is my determination that the release of this information could permit hostile non-U.S. persons, entities, and foreign governments to appraise the scope, focus, location, target, and capabilities of the FBI's intelligence-gathering methods and activities, and allow hostile agents to devise countermeasures to circumvent these intelligence activities or methods and render them useless in providing intelligence information. This revelation of intelligence activities and methods would severely disrupt the FBI's intelligence-gathering capabilities and could cause serious damage to our national security. This information is properly classified at the "Secret" level and withheld pursuant to E.O. 13526, § 1.4(c). Thus, the information is exempt from disclosure pursuant to Exemption 1.

**Exemption 1: E.O. 13526, § 1.4(d)-Foreign Relations or Foreign Activities**

(26) E.O. 13526, § 1.4 (d), exempts foreign relations or foreign activities of the United States, including confidential sources. The FBI withheld portions of the responsive documents because they contain classified information concerning sensitive intelligence information gathered by the United States either about or from a foreign country. This information is sensitive due in

part to the delicate nature of international diplomacy, and must be handled with care so as not to jeopardize the fragile relationships that exist between the United States and certain foreign governments.

(27) The unauthorized disclosure of information concerning foreign relations or foreign activities of the United States can reasonably be expected to lead to diplomatic or economic retaliation against the United States; identify the target, scope, or time frame of intelligence activities of the United States in or about a foreign country, which may result in the curtailment or cessation of these activities; enable hostile entities to assess United States intelligence gathering activities in or about a foreign country and devise countermeasures against these activities; or compromise cooperative foreign sources, which may jeopardize their safety and curtail the flow of information from these sources. Thus, the information about foreign relations or foreign activities withheld by the FBI is properly classified at the “Secret” level, withheld pursuant to E.O. 13526, § 1.4 (d), and is exempt from disclosure pursuant to Exemption 1.

### **Exemption 3 – Information Protected By Statute**

(28) Exemption 3 exempts information when another federal statute prohibits its disclosure provided that either the statute “requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue,” or the statute “establishes particular criteria for withholding or refers to particular types of matters to be withheld.” 5 U.S.C. § 552(b)(3). Moreover, if the withholding statute was enacted after October 28, 2009 (the date of enactment of the OPEN FOIA Act of 2009), then it must specifically cite to § 552(b)(3).

### **Exemption 3: National Security Act of 1947, 50 U.S.C. § 3024 (i)(1)**

(29) Pursuant to Exemption 3, the FBI withheld portions of the responsive records

containing information exempt under Section 102A(i)(1) of the National Security Act of 1947 (“NSA”), as amended by the Intelligence Reform and Terrorism Prevention Act of 2004 (“IRTPA”), 50 U.S.C. § 3024(i)(1), which provides that the Director of National Intelligence (“DNI”) “shall protect from unauthorized disclosure intelligence sources and methods.”<sup>4</sup> As relevant to U.S.C. § 552(b)(3)(B), the National Security Act of 1947 was enacted before the date of enactment of the OPEN FOIA Act of 2009. On its face, this federal statute leaves no discretion to agencies about withholding from the public information about intelligence sources and methods. Thus, the protection afforded to intelligence sources and methods by 50 U.S.C. § 3024(i)(1) is absolute. *See CIA v. Sims*, 471 U.S. 159 (1985).

(30) In order to fulfill its obligation of protecting intelligence sources and methods, the DNI is authorized to establish and implement guidelines for the Intelligence Community (“IC”) for the classification of information under applicable laws, Executive Orders, or other Presidential Directives, and for access to and dissemination of intelligence. 50 U.S.C. § 3024(i)(1). In implementing this authority, the DNI promulgated Intelligence Community Directive 700, which provides that IC elements shall protect “national intelligence and intelligence sources and methods and activities from unauthorized disclosure.”<sup>5</sup> The FBI is one of 17 member agencies comprising the IC, and as such must protect intelligence sources and methods.

(31) Given the plain Congressional mandate to protect the IC’s sources and methods of gathering intelligence, the FBI has determined that intelligence sources and methods would be

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<sup>4</sup> Section 102A(i)(1) of the National Security Act was previously codified at 50 U.S.C. § 403(i)(1). As a result of the reorganization of Title 50 of the U.S. Code, Section 102A(i)(1) is now codified at 50 U.S.C. § 3024(i)(1).

<sup>5</sup> Intelligence Community Directive (ICD) 700, date June 7 2012, at ¶ 2a.

revealed if any of the withheld information is disclosed to plaintiffs. Therefore, the FBI is prohibited from disclosing such information under § 3024 (i)(1).<sup>6</sup>

(32) The FBI is asserting Exemption 3 in this case, at times in conjunction with Exemptions 1 and 7(E) to protect information that would reveal intelligence sources and methods. In some instances, information would reveal classified intelligence sources and methods protected by Exemption 1. In some instances, information was protected under Exemption 7(E) because unclassified intelligence sources and methods were employed as law enforcement techniques, procedures or guidelines and thus would qualify as both an intelligence source and method under Exemption 3 and a law enforcement technique under Exemption 7(E). Notably, § 3024 (i)(1) protects sources and methods regardless of whether they are classified. *See Sims*, 471 U.S. at 176.

#### **Exemption 7 Threshold**

(33) Before an agency can invoke any of the harms enumerated in Exemption 7, it must first demonstrate that the records or information at issue were compiled for law enforcement purposes. Pursuant to 28 USC §§ 533, 534, and Executive Order 12333 as implemented by the Attorney General's Guidelines for Domestic FBI Operations ("AGG-DOM") and 28 CFR § 0.85, the FBI is the primary investigative agency of the federal government with authority and responsibility to investigate all violations of federal law not exclusively assigned to another agency, to conduct investigations and activities to protect the United States and its people from terrorism and threats to national security, and further the foreign intelligence objectives of the

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<sup>6</sup> Although § 3024 (i)(1) does not impose a requirement to articulate harm, disclosure of this information presents a bona fide opportunity for individuals to develop and implement countermeasures, resulting in the loss of significant intelligence information, sources, and methods relied upon by national policymakers and the IC to safeguard national security.



United States. Under this investigative authority, the responsive records herein were compiled for the following specific law enforcement purposes.

(34) The pertinent records contain information that was compiled or created in furtherance of FBI's law enforcement, national security, and intelligence missions. Among the explicit goals of the Presidentially-created Review was the determination of the appropriate disposition of individuals detained at Guantanamo Bay, including a determination of whether criminal prosecution was feasible or appropriate in certain circumstances. *See* E.O. 13,492 § 4(c)(3). As noted in the Final Report of the Task Force, in some instances, FBI agents who had worked on law enforcement investigations relating to certain detainees provided investigatory information directly to Task Force participants. *See* Final Report of Guantanamo Review Task Force at 20 (Jan. 22, 2010). The responsive records also include FBI information created or compiled in furtherance of FBI's national security, and intelligence functions. That information includes the identification of, development, and implementation of law enforcement and intelligence information and analysis of that intelligence for the purpose of assessing any threats to national security and relevant actions as a result of the information gleaned. Thus, these records were compiled for a law enforcement purpose; they squarely fall within the law enforcement duties of the FBI; therefore, the information readily meets the threshold requirement of Exemption 7.

**Exemption 7(A): Pending Law Enforcement Investigations and Proceedings**

(35) 5 U.S.C. § 552 (b)(7)(A) exempts from disclosure:

records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information . . . could reasonably be expected to interfere with enforcement proceedings.

(36) Application of this exemption requires: the existence of law enforcement records; a pending or prospective law enforcement proceeding; and a determination that release of the information could reasonably be expected to interfere with the enforcement proceeding. The FBI withheld portions of the responsive documents pursuant to Exemption 7(A) to protect the names and file numbers of pending FBI investigations and other identifying information that would reveal the targets of those investigations. The release of the file numbers and related identifying information pertaining to investigative activities of third parties of on-going FBI investigations could result not only in the acknowledgment of the existence of an investigation, but also in the identification of suspects and thus jeopardize the investigation. The FBI has concluded that this information is intertwined with other ongoing investigations of known and suspected third party terrorists. The FBI has also determined that disclosure of the information, in the midst of active and ongoing investigations, could reasonably be expected to interfere with these other investigations as well as any resulting prosecutions. As such, the release of this information would interfere with pending and prospective enforcement proceedings, including investigations and prosecutions; therefore, the FBI withheld this information pursuant to FOIA exemption 7(A). The release of the file numbers and identifying information relating to the targets of on-going FBI investigations could result not only in the acknowledgment of the existence of the investigations but also in the identification of specific suspects and thus jeopardize the investigations. The FBI has applied Exemption 7(A) to protect the file numbers and names and other identifying details of these open investigations.

**Exemption 7(B):                      Prejudicial Pretrial Publicity that Could Impair a Court Proceeding**

(37) FBI withheld portions of the responsive documents pursuant to FOIA Exemption 7(B), which is aimed at preventing prejudicial pretrial publicity that could impair a court proceeding, protects “records or information compiled for law enforcement purposes [the disclosure of which] would deprive a person of a right to a fair trial or an impartial adjudication.

(38) In order to qualify for protection under 7(B), the Court of Appeals for the D.C. Circuit articulated a two-part standard to be employed in determining Exemption 7(B)’s applicability: “(1) that a trial or adjudication is pending or truly imminent; and (2) that it is more probably than not that disclosure of the material sought would seriously interfere with the fairness of those proceedings.” The responsive records include threat assessments of certain detainees for whom law enforcement proceedings are ongoing or are reasonably anticipate. Premature release of the recommendations provided in the threat assessments through the FOIA, could unfairly impact ongoing or prospective proceedings and jeopardize the detainee’s ability to receive a fair and impartial adjudication.

(39) It could also provide access to information not already available to the detainee under the discovery rules and thus would confer an unfair advantage on one of the parties. Each threat assessment contains footnotes identifying specific source documents, yet another example of how if the threat assessments were released through FOIA, the detainee would have knowledge of types of information that may not already be available through the court proceedings (i.e., an FBI FD-302 typically captures interviews of third parties providing information, the identification of a specific file number could reveal targets of investigative activities or a close association with

another target of investigation, and factors such as these could indicate that the government has additional testimony or information available and/or generate undue publicity as a result of the association with a notorious investigative subject.)

**Exemptions 6 and 7(C): Invasions of Personal Privacy**

(40) Exemption 6 exempts from disclosure “personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” 5 U.S.C. § 552(b)(6). All information that applies to a particular person falls within the scope of Exemption 6.

(41) Exemption 7(C) similarly exempts from disclosure “records or information compiled for law enforcement purposes [when disclosure] could reasonably be expected to constitute an unwarranted invasion of personal privacy.” 5 U.S.C. § 552(b)(7)(C).<sup>7</sup>

(42) When withholding information pursuant to these two exemptions, the FBI is required to balance the privacy interests of the individuals mentioned in these records against any public interest in disclosure. In asserting these exemptions, each piece of information was scrutinized to determine the nature and strength of the privacy interest of every individual whose name and/or identifying information appears in the documents at issue. When withholding the information, the individual's privacy interest was balanced against the public's interest in disclosure. For purposes of these exemptions, a public interest exists only when information about an individual would shed light on the FBI's performance of its mission to protect and

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<sup>7</sup> The practice of the FBI is to assert Exemption 6 in conjunction with Exemption 7(C). Although the balancing test for Exemption 6 uses a “would constitute a clearly unwarranted invasion of personal privacy” standard and the test for Exemption 7(C) uses the lower standard of “could reasonably be expected to constitute an unwarranted invasion of personal privacy,” the analysis and balancing required by both exemptions is sufficiently similar to warrant a consolidated discussion. The privacy interests are balanced against the public's interest in disclosure under both exemptions.

defend the United States against terrorist and foreign intelligence threats, to uphold and enforce the criminal laws of the United States, and to provide leadership and criminal justice services to federal, state, municipal, and international agencies and partners. In each instance where information was withheld pursuant to Exemptions 6 and 7(C), the FBI determined that the individuals' privacy interests outweighed any public interest in disclosure.

**Exemptions 6 and 7(C):     **Names and/or Identifying Information of FBI Special Agents and Support****

(43) Under Exemptions 6 and 7(C), the FBI withheld portions of the responsive documents containing names and identifying information of FBI Special Agents (“SAs”) and support personnel who were responsible for conducting, supervising, and/or maintaining the investigative activities reflected in the documents responsive to this FOIA request. These responsibilities included conducting interviews and compiling information, and providing analysis, as well as reporting on the status of investigations. Assignments of SAs to any particular investigation are not by choice. Publicity (adverse or otherwise) regarding any particular investigation to which they have been assigned may seriously prejudice their effectiveness in conducting other investigations. The status of the GTMO detainees has been highly publicized by the media and personnel with specific knowledge of information concerning the detainees would be highly sought. Therefore, the privacy consideration is also to protect FBI SAs, as individuals, from unnecessary, unofficial questioning as to the conduct of this or other investigations, whether or not they are still currently employed by the FBI. FBI SAs conduct official inquiries into various criminal and national security violation cases. They come into contact with all strata of society, conducting searches and making arrests, both of which result in

reasonable but nonetheless serious disturbances to people and their lives. It is possible for an individual targeted by such law enforcement actions as well as organizations they are associated with to carry a grudge which may last for years. These individuals may seek revenge on the agents and other federal employees involved in a particular investigation. The publicity associated with the release of an agent's identity in connection with a particular investigation could trigger hostility toward a particular agent. Thus, SAs maintain substantial privacy interests in information about them in criminal investigative files. In contrast, there is no public interest to be served by disclosing the identities of the SAs to the public because their identities would not, themselves, significantly increase the public's understanding of the FBI's operations and activities.

(44) The names of FBI support employees were also protected within the Threat Assessments. Support personnel are assigned to handle tasks related to the official investigations reflected in the documents responsive to plaintiffs' FOIA request. They were, and possibly are, in positions of access to information regarding official law enforcement investigations, and therefore could become targets of harassing inquiries for unauthorized access to investigations if their identities were released. Thus, these individuals maintain substantial privacy interests in not having their identities disclosed. In contrast, the FBI concluded that no public interest would be served by disclosing the identities of these FBI support employees to the general public because their identities would not, themselves, significantly increase the public's understanding of the FBI's operations and activities. Accordingly, after balancing these employees' substantial privacy interests against the non-existent public interest, the FBI properly protected the names and identifying information of SAs and support personnel pursuant to Exemptions 6 and 7(C).

**Exemptions 6 and 7(C):      Names and/or Identifying Information of Third Parties of Investigative Interest**

(45) Under Exemptions 6 and 7(C), the FBI withheld portions of the responsive documents that contained the names and/or identifying information of third-parties who were of investigative interest to the FBI or other law enforcement agencies. Identifying information may include, but is not limited to, names, dates of birth, social security numbers, addresses, telephone numbers, singular employment or organizational positions, locality and close relationship information, as well as other personal information. Identification as a subject of a terrorism investigation such as detainees and individuals associated with these detainees identified in the responsive material, carries a strong negative connotation and a stigma. Release of the identities of these individuals to the public could subject them to harassment or embarrassment, as well as undue public attention. Accordingly, the FBI has determined that these individuals maintain substantial privacy interests in not having their identities disclosed. In contrast, disclosing personal information about these individuals would not significantly increase the public's understanding of the FBI's or other law enforcement agencies' performance of their mission and so the FBI concluded that there was no public interest here sufficient to override these individuals' substantial privacy interests. For these reasons, the FBI properly withheld this information pursuant to FOIA Exemptions 6 and 7(C).

**Exemptions 6 and 7(C):      Names and/or Identifying Information of Third Parties Merely Mentioned**

(46) Under Exemptions 6 and 7(C), the FBI withheld portions of the responsive documents containing the names and identifying information of third parties merely mentioned in the records at issue. Identifying information may include, but is not limited to, names, familial

relationships, telephone/facsimile numbers, mailing addresses, e-mail addresses, IP addresses, and other personal information. The FBI obtained information concerning third parties who came into contact with the subjects of the investigations. These individuals were not of investigative interest to the FBI. For example, in one or more threat assessments the FBI protected the identity of the owner at a guesthouse where a detainee is reported to have stayed. In others, FBI protected the names and identifying information of individuals that detainee claimed to have had contact with, and who are unrelated to any subject of investigation. These third parties maintain legitimate privacy interests in not having their identifying information disclosed. If the FBI disclosed their names and other personal information, the disclosure would reveal that these third parties were connected with the FBI's investigations in some way. Disclosure of these third parties' names and identifying information in connection with the FBI's investigation of criminal activities carries an extremely negative connotation. Disclosure of their identities would subject these individuals to possible harassment or criticism and focus derogatory inferences and suspicion on them. Accordingly, the FBI determined that these third parties maintain a substantial privacy interest in not having information about them disclosed. After identifying the substantial privacy interests these individuals maintain, the FBI balanced their right to privacy against the public interest in the disclosure. The FBI has determined that the personal privacy interests in non-disclosure outweighed the public in disclosure, as disclosure would not shed any light on the operations and activities of the FBI. Thus, disclosure of this information would constitute a clearly unwarranted and unwarranted invasion of their personal privacy. Accordingly, the FBI redacted this information pursuant to FOIA Exemptions 6 and 7(C).



**Exemption 7(D): Confidential Source Information**

(47) Exemption 7(D) protects “records or information compiled for law enforcement purposes” when disclosure “could reasonably be expected to disclose the identity of a confidential source, including a State, local or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement agency conducting a lawful national security intelligence investigation, information furnished by a confidential source.” 5 U.S.C. § 552(b)(7)(D).

(48) The FBI withheld portions of the responsive records pursuant to Exemption 7(D) because the records contain information that FBI gathered from numerous confidential sources; those sources provide information under express assurances of confidentiality and are “informants” within the common meaning of the term. The FBI also withheld portions of the responsive records pursuant to Exemption 7(D) containing names or identifying information of others sources that have provided information under implied assurances of confidentiality (i.e., under circumstances from which assurances of confidentiality may be inferred). In either situation, these sources are considered to be confidential because they furnish information only with the understanding that their identities and the information they provided will not be divulged outside the FBI. Information provided by these sources is singular in nature, and if released, could reveal their identities. The FBI has learned through experience that sources assisting, cooperating with, and providing information to the FBI must be free to do so without fear of reprisal. The FBI has also learned that sources must be free to furnish information to the FBI with complete candor and without the understandable tendency to hedge or withhold information because of fear that their cooperation with the FBI will later be made public. Sources providing

information to the FBI should be secure in the knowledge that their assistance and their identities will be held in confidence.

(49) The release of a source's identity would forever eliminate that source as a future means of obtaining information. When the identity of one source is revealed, that revelation has a chilling effect on the activities and cooperation of other sources providing information to the FBI. Such a result would eliminate one of the FBI's most important means of collecting information and thereby severely hamper law enforcement efforts to detect and apprehend individuals engaged in the violation of federal criminal laws.

**Exemption 7(D): Foreign Government Agency Information Under Express Confidentiality**

(50) Under Exemption 7(D), the FBI protected the identity as well as the information provided by intelligence agencies of foreign governments with an implicit understanding of confidentiality. The FBI has many agreements with foreign governments under which national security and/or criminal law enforcement information is exchanged. The FBI's conclusion that the foreign government agencies at issue here expected confidentiality in its dealings with the FBI and with regard to the information it provided to the FBI is based on the Foreign Government Information Classification Guide #1 (The "G-1 Guide").<sup>8</sup> The G-1 Guide governs classification of foreign government information that foreign governments have asked the FBI to protect over the course of time. The FBI uses the G-1 Guide to determine the level and duration of derivative classification of foreign government information, including unmarked internal FBI documents

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<sup>8</sup> The G-1 Guide is issued in accordance with E.O. 13526, 75 Fed. Reg. 707 (2010) and 75 Fed. Reg. 1013 (2010); the National Archives and Records Administration ("NARA") Information Security Oversight Office ("ISOO") Implementing Directive Number One;<sup>8</sup> the FBI Security Policy Manual (rev. Apr. 3, 2006); and the designated Original Classification Authority ("OCA") of the Executive Assistant Director, FBI National Security Branch.

which are being reviewed for possible classification.

(51) While ostensibly a classification document, the G-1 Guide also provides for confidentiality in non-national security areas. Specifically, it provides that the relationships between certain foreign law enforcement entities and the FBI will not be disclosed and will remain confidential, at the request of those foreign entities.

(52) As relevant here, according to the G-1 Guide, several foreign agencies referenced in the records at issue here requested their relationship with the FBI be classified as well as the information provided. That request evidences the foreign intelligence agency's expectation of confidentiality in its interactions with the FBI and with regard to the information it provided to the FBI for law enforcement/national security purposes under applicable information sharing agreements. The release of official United States Government documents revealing the existence of such a confidential relationship with a current and long-term foreign government partner, in contravention of law enforcement/national security information sharing agreements, reasonably could be expected to strain relations between the United States and the foreign government and lead to negative diplomatic, political, or economic repercussions. Furthermore, a breach of this relationship can be expected to have a chilling effect on the free flow of vital law enforcement and national security information to the FBI, which would impede the FBI's effectiveness in countering and solving crimes and protecting our national security.

(53) For the reasons explained above, the FBI properly concluded that the foreign government intelligence agencies whose identity and information are withheld expected confidentiality in dealings with the FBI, and consequently, there was an express assurance of confidentiality. Accordingly, the FBI appropriately asserted Exemption 7(D) to protect this

information.

**Exemption 7(D): Names, Identifying Data of Source Symbol Numbered Informants Under an Express Assurance of Confidentiality**

(54) Under Exemption 7(D), the FBI also withheld portions of the responsive documents to protect information regarding individual sources who are source symbol numbered informants under an express grant of confidentiality. The withheld information includes the name, source file number, source symbol number, relationships, and other types of personally identifying and singular information. The disclosure of this information would reveal the confidential source's identity. The disclosure of a source's identity would forever neutralize that source as a future means of obtaining information. In addition, if the identity of one source is revealed, that revelation has a chilling effect on the activities and cooperation of other sources. This is particularly significant in national security cases. It is only with the understanding of complete confidentiality that the aid of such sources can be enlisted, and only through this confidence that these sources can be persuaded to continue providing valuable assistance in the future. The FBI therefore properly protected information identifying this third party as well as the information they provided pursuant to FOIA Exemption 7(D), cited at times in conjunction with Exemptions 6 and 7(C).

**Exemption 7(D): Names, Identifying Data of Sources with an Implied Assurance of Confidentiality**

(55) Under Exemption 7(D), the FBI withheld portions of the responsive documents to protect the names, identifying information about, and information provided by third parties under circumstances in which confidentiality can be inferred. These third parties provided information concerning the activities of subjects who were of investigative interest to the FBI or other law

enforcement agencies. Specifically, within the responsive documents, the FBI inferred that individuals provided information to the FBI only because they believed their cooperation with, and the information they provided, would remain confidential under the following circumstances.

(56) The FBI protected identifying information about and information provided by individuals who had provided information over a period of time that had proven to be reliable. These individuals were in a position to have ready access to and/or knowledge about individuals involved in terrorism activities. Such access exposed them, and their families, to potential significant harms should their association and cooperation with the FBI and other IC partners be publicly disclosed. These third party sources provided specific detailed information that is singular in nature concerning the activities of certain subjects regarding the FBI's investigation of terrorism activities. The disclosure of the identities of these sources and the information they provided could have dire consequences because disclosure could subject these third parties, as well as their families, to embarrassment, humiliation, and/or physical or mental harm.

(57) These third parties provided information of value to the FBI concerning its investigations, and in doing so, placed themselves in harm's way should their identity and cooperation with the FBI become known. Under these circumstances, it is reasonable to infer that these third parties cooperated with the FBI only with the expectation of confidentiality. Thus, the FBI properly protected the sources' identities and the information they provided pursuant to FOIA Exemption 7(D). At times, the FBI also cited FOIA Exemptions 6 and 7(C) in conjunction with FOIA Exemption 7 (D) to protect the names and/or identifying information of third parties who provided information.

**Exemption 7(E): Investigative Techniques and Procedures**

(58) 5 U.S.C. § 552(b)(7)(E) provides protection for:

Law enforcement records which would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law.

(59) Exemption 7(E) has been asserted to protect information containing sensitive investigatory techniques and procedures authorized for use by the FBI. This exemption affords categorical protection to techniques and procedures used in law enforcement investigations; it protects techniques and procedures not well-known to the public as well as non-public details about the use of well-known techniques and procedures. The release of additional information would disclose techniques and/or procedures used in law enforcement, criminal and national security investigations or prosecutions, or would disclose guidelines for law enforcement, criminal and national security investigations or prosecutions that could reasonably be expected to risk circumvention of the law.

(60) The FBI's rationale for protecting this information cannot be examined in a vacuum; it must be analyzed within the larger context of our country's current national security climate. The FBI is charged with protecting the nation from security risks posed by U.S. and non-U.S. individuals, organizations (such as terrorist groups), and foreign nations that seek to harm the United States. Thus, if specific investigative techniques or procedures are made public, the very criminals and terrorist groups who seek harm to U.S. interests can use the information to their advantage, learn FBI tactics in gathering information, and develop countermeasures to avoid detection. The FBI withheld portions of the responsive records pursuant to Exemption 7(E)

containing polygraph details, the collection and analysis of intelligence, sensitive file and report numbers, database identification and selection, and information and reports generated from these databases.

(61) Polygraph Details: Among the techniques and procedures protected by the FBI pursuant to FOIA Exemption 7(E) are details related to polygraphs such as specific lines of questioning and deception indicators. While the FBI's use of polygraph examinations is publicly known, the details about its use of polygraphs, protected here, are not known. Disclosure of this information could enable individuals subjected to polygraph examinations to circumvent currently used techniques and procedures for conducting the examinations. The relative benefit of polygraph examinations would be diminished by disclosure of the actual techniques and procedures employed by the FBI. This in turn could facilitate the accumulation of information by other individuals or organizations regarding the circumstances under which polygraph examinations are conducted and the value of the information obtained. Release of this type of information would enable examinees (whether a terrorism subject or an applicant for FBI employment) to educate themselves about operational polygraph examinations and develop countermeasures to circumvent the effectiveness of polygraph examinations. Thus the FBI has protected this information from disclosure pursuant to FOIA Exemption 7(E).

(62) Collection and Analysis of Intelligence: Within portions of the responsive records, the FBI protected specific methods that the FBI uses to collect and analyze the information that it obtains for investigative purposes. The release of this information would disclose the identity of methods used in the collection and analysis of information, including how and from where the FBI collects information and the methodologies employed to analyze it once collected. Such

disclosures would enable subjects of FBI investigations to circumvent similar currently used techniques. The relative utility of these techniques could be diminished if the actual techniques were released in this matter. This in turn would facilitate the accumulation of information by investigative subjects regarding the circumstances under which the specific techniques were used or requested and the usefulness of the information obtained. Release of this type of information would enable criminals to educate themselves about the techniques employed for the collection and analysis of information, the circumstances under which a particular technique might be employed and the scope of intelligence it can provide, and therefore allow these individuals to take countermeasures to circumvent the effectiveness of these techniques and to continue to violate the law and engage in intelligence, terrorist, and criminal activities. The FBI has properly withheld this information pursuant to FOIA Exemption 7(E).

(63) Sensitive File and Report Numbers: The FBI also protected sensitive file and Intelligence Report numbers. The FBI has determined that this exemption is appropriate for protecting these file numbers. The release of file numbering convention, and of the numbering convention for certain reports, not only identifies the investigative interest or priority given to such matters but with reports would also identify the submitter of the relevant information. Applying a mosaic analysis, suspects could use these numbers (indicative of investigative priority), in conjunction with other information known about other individuals and/or techniques, to change their pattern of activity to avoid detection, apprehension, or create alibis for suspected activities, etc. Thus, the FBI properly protected this information from disclosure pursuant to FOIA Exemption 7(E).



(64) Database Selection and Identification, Information, and Reports: The FBI protected database identities and search results located through non-public databases used for official law enforcement purposes by the FBI and/or law enforcement personnel. These non-public databases serve as repositories for counterterrorism and investigative data. They are essentially “one-stop” shops that allow law enforcement to query information and develop investigative leads from a variety of source data using state-of-the-art analytical tools. FBI personnel as well as task force members from local, state and other federal agencies have access to these databases. Disclosure of the printouts or information compiled from these search results, or even the selection of a certain database over another for a particular type of information and its relative usefulness, could enable criminals to employ countermeasures to avoid detection, thus jeopardizing the FBI’s investigative mission. Because disclosure would impede the FBI’s effectiveness and potentially aid in circumvention of the techniques if disclosed, the FBI properly withheld this information pursuant to Exemption 7(E). The FBI also relied on Exemptions 1, 3, 6 and 7(C) in some instances to protect information about individuals that was pulled from within these databases.

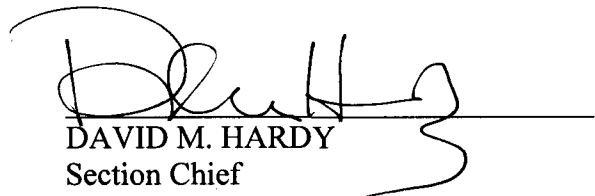
### CONCLUSION

(65) The FBI properly withheld portions of the records responsive to plaintiffs’ FOIA request containing FBI equities pursuant to FOIA Exemptions 1, 3, 6, 7(A), 7(B), 7(C), 7(D), and 7(E). The FBI carefully examined the documents and determined that the information withheld from plaintiff in this case, if disclosed: would reveal classified and statutorily protected information; would reveal privileged information; cause prejudicial pretrial publicity that could impair a court proceeding; could reasonably be expected to interfere with pending or prospective

enforcement proceedings; would cause a clearly unwarranted invasion of the personal privacy, or could reasonably be expected to constitute an unwarranted invasion of personal privacy; could reasonably be expected to disclose the identities of confidential sources and the information they provided; and/or would disclose techniques and procedures for law enforcement investigations.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 27<sup>th</sup> day of March, 2017.

  
DAVID M. HARDY  
Section Chief  
Record/Information Dissemination Section  
Records Management Division  
Federal Bureau of Investigation  
Winchester, Virginia

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UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

THE NEW YORK TIMES COMPANY and

CHARLIE SAVAGE,

Plaintiffs,

v.

U.S. DEPARTMENT OF JUSTICE,

Defendant.

16 Civ. 6120 (RMB)

DECLARATION OF [REDACTED]

I, [REDACTED] pursuant to 28 U.S.C. § 1746, hereby declare, under penalty of perjury of the laws of the United States of America, that the following statements are true and correct to the best of my knowledge, information, and belief:


1. [REDACTED]

[REDACTED]

<sup>1</sup>The Department of Defense (DoD) is redacting the declarant's name and biographic information from the public version of this declaration. This identifying information is being redacted pursuant to 10 U.S.C. § 424(a)(2). Moreover, these redactions are consistent with DoD's policy to withhold from public filings the names and other personally identifying information of DoD personnel who, like the declarant, are at the military grade of O-6 or below or at the civilian grade of GS-15 or below.

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2. The SC/DRT is composed of Component Subject Matter Experts and declassification authorities from the following DoD Commands and organizations: U.S. Southern Command (“USSOUTHCOM”)/Joint Task Force-Guantanamo Bay (“JTF-GTMO”), U.S. Central Command (“USCENTCOM”), the DIA, the U.S. Army Terrorism Criminal Investigation Unit, the Periodic Review Secretariat, and one individual representing all “other DoD Components” with equities. This team of declassification experts represents and coordinates with their respective Original Classification Authorities (“OCAs”), under DIA as the Executive Agent for this process. In support of detainee-related habeas corpus, criminal, and FOIA litigation, the SC/DRT reviews all detainee-related records to ensure that DoD information is properly designated, marked, protected, and, if appropriate, declassified. This process is performed pursuant to Executive Order 13526, “Classified National Security Information,” December 29, 2009 (“EO 13526”), as well as DoD Directives, regulations, and policy regarding classification standards and the public release of information.

3. [REDACTED] I am familiar with the plaintiffs’ Freedom of Information Act (“FOIA”) request, dated June 13, 2016, sent to DOJ, which seeks the disclosure of “the threat assessments of Guantanamo detainees produced by the six-agency executive order task force appointed in 2009 to review each remaining prisoner and led by Matt Olsen.”

4. The responsive records in this case consist of the “threat assessment” portions of the recommendation memoranda created by the Guantanamo Review Task Force, which compiled and reviewed information pertaining to individuals then detained at Guantanamo Bay, Cuba, and prepared written recommendation memoranda setting forth issues for consideration by the final decision-makers responsible for determining the disposition of detainees. DoD was a full

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participant and one of six federal agencies responsible for the review process that yielded the memoranda created by the Guantanamo Review Task Force. DoD also was represented on the Review Panel by senior-level DoD officials. The threat assessments at issue in this case contain a substantial amount of DoD information that is derived from military and intelligence operations conducted at Guantanamo Bay, Cuba. Therefore, while DoD is not a party to this case, it has a substantial interest in the outcome of the litigation and has been consulted by DOJ.

5. For the reasons set forth below, DoD has determined that the threat assessments are exempt from disclosure pursuant to several FOIA exemptions. First, much of the information implicating DoD equities in the responsive records is currently and properly classified and exempt from release pursuant to 5 U.S.C. § 552(b)(1). Second, portions of the records are exempt from release pursuant to 5 U.S.C. § 552(b)(3) because they are protected by withholding statutes, specifically 50 U.S.C. § 3024-(i)(1), 10 U.S.C. § 424, and 10 U.S.C. § 130(b). Third, portions are also exempt pursuant to 5 U.S.C. § 552(b)(6) because release of the information would constitute a clearly unwarranted invasion of personal privacy. Finally, portions of the responsive records are exempt from release pursuant to 5 U.S.C. § 552(b)(7)(A) because release would reasonably be expected to interfere with ongoing or pending law enforcement proceedings.<sup>2</sup> The statements in this declaration are based upon my personal knowledge, the personal knowledge of persons whom I oversee and supervise, and upon my review of information available to me in my official capacity.

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<sup>2</sup> DoD is submitting a separate declaration from Colonel Robert C. Moscati, Deputy Chief Prosecutor, Office of the Chief Prosecutor, Office of Military Commissions, to support its assertion of Exemption 7A.

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**Portions Withheld by DoD Under Exemption 1**

6. FOIA Exemption 1, 5 U.S.C. § 552(b)(1), provides that the FOIA disclosure provisions do not apply to matters that are: (A) specifically authorized under criteria established by an Executive Order (“EO”) to be kept from disclosure in the interests of national defense or foreign policy and (B) are in fact properly classified pursuant to such an Executive Order.

7. EO 13526 establishes a framework for “classifying” and “safeguarding” national security information, “including information relating to defense against transnational terrorism.” Section 6.1(i) of EO 13526 defines “classified national security information” or “classified information” as “information that has been determined pursuant to this order or any predecessor order to require protection against unauthorized disclosure and is marked to indicate its classified status when in documentary form.” Section 6.1(cc) of EO 13526 defines “national security” as the “national defense or foreign relations of the United States.”

8. Section 1.1(a) of EO 13526 provides that information may be originally classified under the terms of this order only if all of the following conditions are met: (1) an original classification authority (or “OCA”) is classifying the information; (2) the information is owned by, produced by or for, or is under the control of the United States government; (3) the information falls within one or more of the categories of information listed in section 1.4 of EO 13526; and (4) the original classification authority determines that the unauthorized disclosure of the information reasonably could be expected to result in some level of damage to the national security, and the OCA is able to identify or describe that damage.

9. Section 1.2 of EO 13526 provides that information covered by one or more of the classification categories listed in section 1.4 of the EO may be classified at one of three classification levels – TOP SECRET (TS), SECRET (S) or CONFIDENTIAL (C) – depending

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on the degree of harm that would result from the unauthorized disclosure of such information. Information is classified at the CONFIDENTIAL level if unauthorized disclosure could reasonably be expected to cause damage to national security. Information is classified at the SECRET level if its release could reasonably be expected to cause serious damage to the national security. Classification at the TOP SECRET level is maintained if its release could reasonably be expected to cause exceptionally grave damage to the national security.

10. I have determined that, for the reasons explained below, certain information within the threat assessments remains currently and properly classified at the TOP SECRET and SECRET levels under EO 13526, and that it is therefore appropriately withheld under FOIA Exemption 1. This determination is within my authority as a declassification review official and is further supported by the opinions of the subject matter experts with knowledge of the national security topics covered.

11. *1.4(a) – Military operations.* DoD withheld certain information in the threat assessments under Exemption 1 because it relates to military and counterterrorism operations, and its disclosure could reasonably be expected to cause either exceptionally grave or serious damage to national security, and it is thus properly classified as TOP SECRET or SECRET under Section 1.4(a) of EO 13526. All of this information is currently and properly classified and exempt from disclosure under EO 13526 Section 1.4(a) (military plans, weapons systems, or operations).

12. The Joint Task Force-Guantanamo (JTF-GTMO) at Naval Station Guantanamo Bay, Cuba operates a military detention facility which holds law of war detainees. Public release of certain information contained within the threat assessments responsive to plaintiff's request could jeopardize the safety and security of JTF-GTMO personnel and the detainees. This information could be used by detainees to develop countermeasures to thwart JTF-GTMO

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tactics, techniques, and procedures. Additionally, the threat assessments contain information pertaining to the timing and location of detainee movements, release of which poses security concerns. The movement of Guantanamo detainees is a military operation involving the commitment of either United States or foreign personnel and assets and should be protected. Certain systems are in place in the detention facility which assist the JTF-GTMO personnel in ensuring good order and discipline in the camps; information within these threat assessments could provide detail regarding those systems which could jeopardize the ability of JTF-GTMO personnel to utilize the systems and/or could enable detainees to manipulate information to thwart the efforts of JTF-GTMO personnel. This information remains currently and properly classified TOP SECRET or SECRET under EO 13526, and it is appropriately withheld under Exemption 1.

13. *1.4(b) – Foreign government information.* DoD withheld certain information in the threat assessments under Exemption 1 because it consists of foreign government information, and its disclosure could reasonably be expected to cause either exceptionally grave or serious damage to national security, and it is thus properly classified as TOP SECRET or SECRET under Section 1.4(b) of EO 13526.

14. Specific information in the threat assessments consists of or refers to intelligence information provided by foreign governments. Disclosure of this information could compromise foreign government information and be exploited by third-parties to determine which foreign representatives were talking to the United States and the timing of such communications. Any disclosure by the DoD of information obtained via covert and overt intelligence practices in partnership with intelligence services of foreign countries would reveal an intelligence relationship and threaten the flow of information between the United States and other

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governments. This information remains currently and properly classified TOP SECRET or SECRET under EO 13526, and it is appropriately withheld under FOIA Exemption 1.

15. *1.4(c) – Intelligence sources and methods.* DoD withheld certain information in the threat assessments under Exemption I because it relates to intelligence sources and methods, its disclosure could reasonably be expected to cause either exceptionally grave or serious damage to national security, and it is properly classified as TOP SECRET or SECRET under Section 1.4(c) of EO 13526. Some of the withheld information contains material discussing intelligence methods, specifically the means by which DoD and DoD's Defense Intelligence Agency ("DIA") legally collect intelligence.

16. Some of the withheld information also contains information relating to intelligence sources. Section 1.4(c) of EO 13526 recognizes that the disclosure of intelligence sources can cause damage to the national security. Willing intelligence sources can be expected to furnish information only when confident that they are protected from retribution by the absolute secrecy surrounding their relationship to the United States government. Sources that are compromised become extremely vulnerable to retaliation from a variety of entities including their own governments or others having a stake in the confidentiality of the information provided by the source.

17. Other information withheld concerns the identities of military intelligence personnel which is classified in accordance with DoD Directive (DoDD) 3115.09 and pursuant to section 1.4(c) of EO 13526. DoDD 3115.09, section 13a states: "[t]he names and visual representation of DoD interrogators, debriefers, contract interrogators, support personnel, and foreign government interrogators shall be classified, at a minimum, as 'SECRET//RELEASEABLE TO' or 'SECRET//NOFORN,' as appropriate, when their identities are associated with the interrogation, debriefing or other intelligence questioning of a specific detainee." This directive

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reflects critical DoD security concerns based on experience regarding the national security harm that would result if the identities of intelligence personnel were disclosed. These DoD personnel often deploy to locations abroad, including active combat zones where they are particularly vulnerable. This information must remain classified because intelligence personnel must be able to perform their official duties without fear of retribution by hostile actors. They must have a reasonable expectation that their personal privacy will be maintained and that neither their identities, nor their safety or the safety of their families, will be compromised as a result of the performance of their duties.

18. In addition, the release of information concerning DoD's methods for assessing a source's reliability, access, and placement could also compromise active and future intelligence gathering operations, and could result in damage to national security. Section 1.4(c) of EO 13526 also recognizes that the release of intelligence methods can cause damage to national security. Intelligence methods are the means by which (or the manner in which) an intelligence agency collects information to support military operations, assist in national policymaking, assess military threats, or otherwise accomplish its mission. Detailed knowledge of the methods and collection practices of an intelligence agency must be protected from disclosure because such knowledge would materially assist those who would seek to penetrate, detect, prevent, avoid, or damage the intelligence operations of the United States.

19. Disclosure of the sources and methods the U.S. government uses could reasonably be expected to enable persons and groups hostile to the United States to identify United States intelligence activities, methods or sources, and to design countermeasures to them. This information remains currently and properly classified TOP SECRET or SECRET under EO 13526, and it is appropriately withheld under FOIA Exemption I.

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20. *1.4(d) – Foreign relations or foreign activities of the United States, including confidential sources.* DoD withheld certain information in the threat assessments under Exemption 1 because it consists of information that is related to foreign relations or the foreign activities of the United States, and may include confidential sources. Its disclosure could reasonably be expected to cause either exceptionally grave or serious damage to national security, and it is thus properly classified as TOP SECRET or SECRET under Section 1.4(d) of EO 13526.

21. If DoD were to disclose this information, it would have a chilling effect on current U.S. foreign relations, and any future relations, inasmuch as potential associations might be precluded for fear of exposure, especially with confidential sources. The United States government goes to great lengths to maintain effective foreign relations and even greater lengths to protect and maintain its sources' confidentiality because it is an integral part of successful foreign relations policy. Release of such confidential information could reasonably be expected to damage our relations with governments whose cooperation is important to the security of the United States. This information remains currently and properly classified TOP SECRET or SECRET under EO 13526, and it is appropriately withheld under FOIA Exemption 1. This information remains currently and properly classified TOP SECRET or SECRET under EO 13526, and it is appropriately withheld under FOIA Exemption 1.

22. *1.4(g) – Vulnerabilities or capabilities of systems or installations relating to the national security of the United States.* DoD withheld certain information in the threat assessments under Exemption 1 because it pertains to the vulnerabilities or capabilities of certain systems or installations relating to the national security of the United States, and its disclosure could reasonably be expected to cause either exceptionally grave or serious damage to national

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security, and it is thus properly classified as TOP SECRET or SECRET under Section 1.4(g) of EO 13526.

23. Section 1.4(g) of EO 13526 recognizes that the release of information relating to system or installation vulnerabilities or capabilities can cause damage to national security. Detailed information about DoD systems or installation vulnerabilities or capabilities must be protected from disclosure because such information would materially assist those who would seek to counter, evade, nullify or defend against DoD capabilities, or exploit its vulnerabilities. Disclosure of this information could also reasonably be expected to enable foreign governments, persons, or entities, to undertake measures that would expose these vulnerabilities. This could, in turn, be reasonably expected to cause exceptionally grave or serious damage to national security because release of this type of classified information would indicate to our adversaries the strengths or weaknesses of our systems and installations. Our adversaries could, in turn, either seek to exploit any identified weaknesses, or engage in countermeasures in order to reduce the effectiveness of said systems and installations. As discussed above, JTF-GTMO operates a military detention facility which holds law of war detainees. Release of information contained within these threat assessments relating to systems or vulnerabilities utilized for the military operation of the facility could jeopardize the safety and security of JTF-GTMO personnel and the detainees as it could be used to thwart the efforts of JTF-GTMO personnel to maintain security and employ force protection measures. Based on the information provided to me in the course of my official duties, some of the information withheld in the threat assessments concerns information relating to DoD systems or installation vulnerabilities or capabilities. This information remains currently and properly classified TOP SECRET or SECRET under EO 13526, and it is appropriately withheld under FOIA Exemption 1.

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**Portions DoD Withheld Under Exemption 3**

24. Under Exemption 3, 5 U.S.C. § 552(b)(3), information in responsive records shall be withheld if it is “specifically exempted from disclosure by statute provided that such statute[]...requires that the matter[] be withheld from the public in such a manner as to leave no discretion on the issue.” The National Security Act, 50 U.S.C. § 3024(i)(1), which is an Exemption 3 withholding statute mandates that the “[t]he Director of National Intelligence shall protect intelligence sources and methods from unauthorized disclosure.” DIA carries out its intelligence mission under the guidance of the Director of National Intelligence and in accordance with the National Security Act. Some information in the threat assessments would reveal intelligence sources and methods and was withheld pursuant to 50 U.S.C. § 3024(i). These withholdings are necessary to protect the effectiveness of these sources and methods to gather intelligence. Although no showing of harm is required to justify the application of Exemption 3, release of the withheld information regarding intelligence sources and methods would allow adversaries to employ countermeasures, thus reducing the effectiveness of the sources and methods as intelligence collection tools. It is not possible to provide this information without compromising the sources and methods.

25. Some information in the threat assessments is also exempt from release pursuant to 10 U.S.C. § 424(a)(2), which prohibits disclosure of “the number of persons employed by or assigned or detailed to any” intelligence organization identified in the statute, “or the name, official title, occupational series, grade, or salary of any such person.” Under 10 U.S.C. § 424(b)(1), DIA is a named intelligence organization that qualifies for this protection. Release of the information contained in the threat assessments would identify the names and official titles of government employees working in sensitive positions as well as identify part of the DIA’s

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organizational structure, the identities of DIA employees, and sensitive DIA functions.

Withholding that information is properly within the scope of 10 U.S.C. § 424.

26. Finally, some information is exempt pursuant to 10 U.S.C. § 130b. This statute permits the Secretary of Defense to withhold “personally identifying information regarding [] any member of the armed forces assigned to an overseas unit, a sensitive unit, or a routinely deployable unit.” The term “sensitive unit” means, “a unit that is primarily involved in training for the conduct of, or conducting, special activities or classified missions, including: [] a unit involved in collecting, handling, disposing, or storing of classified information and materials.” 10 U.S.C. § 130b. DoD withheld personally identifying information of members of the armed forces assigned to these units as authorized by 10 U.S.C. § 130b. Release of this information would identify the names and official titles of government employees working in sensitive positions which is properly within the scope of 10 U.S.C. § 130b.

#### **Portions DoD Withheld Under Exemption 6**

27. Exemption 6, 5 U.S.C. § 552(b)(6), authorizes the Government to withhold information about individuals when the disclosure of such information “would constitute a clearly unwarranted invasion of personal privacy.” To warrant protection under Exemption 6, information must fall within the category of personnel files, medical files, or similar files. Once it has been established that information meets the threshold requirement of Exemption 6, the focus of the inquiry turns to whether disclosure of the records at issue would constitute a clearly unwarranted invasion of personal privacy. This requires a balancing of the public’s right to disclosure against the individual’s right to privacy. First, it must be ascertained whether a protectable privacy interest exists that would be threatened by disclosure. If a privacy interest is

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found to exist, the public interest in disclosure, if any, must be weighed against the privacy interest in nondisclosure.

28. DoD withholds personally identifying information of those members of DoD who are at the military rank of Colonel or below and at the rank of GS-15 or below. The underlying rationale is that disclosing the names of the individuals involved could subject such individuals to annoyance or harassment in their private lives. Pursuant to Exemption 6 and this DoD policy, DoD has withheld some personally identifying information of qualifying DoD personnel named in some of the threat assessments.

29. Exemption 6 also permits the Government to withhold information about individuals contained in medical records when the disclosure of such information would constitute a clearly unwarranted invasion of that individual's personal privacy. Some information in the threat assessments consists of medical or psychological evaluations of the detainees who were the subjects of the threat assessments. Consistent with the DoD Health Information Privacy Regulation (DoD 6025.18-R) Chapter 2.8, January 24, 2003, and DoD Instruction Number 2310.08E, "Medical Program Support for Detainee Operations," June 6, 2006, it is the practice of DoD to safeguard detainees' medical privacy except when disclosure is required by law, the information falls within an exception identified within DoD Policy or regulation, or the detainee has requested release. The detainees have a protectable privacy interest in their medical records. As such, their privacy interests outweigh any public interest in disclosure.

30. Finally, personal information of detainee family members in the threat assessments has been withheld pursuant to Exemption 6. These family members have significant privacy interests in this information because evidence of their association with a detainee could be stigmatizing and could reasonably lead to their endangerment. Any public interest in this

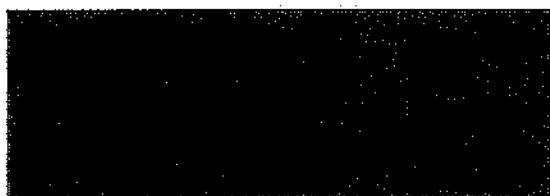
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information would be outweighed by the family members' privacy interest in it, therefore the information concerning their identities has been appropriately withheld under Exemption 6.

I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and information.

Dated this 27<sup>th</sup> day of March, 2017, in Arlington, VA.



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UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

THE NEW YORK TIMES COMPANY and

CHARLIE SAVAGE,

Plaintiffs,

v.

U.S. DEPARTMENT OF JUSTICE,

Defendant.

16 Civ. 6120 (RMB)

**DECLARATION OF COLONEL ROBERT C. MOSCATI**

I, Colonel Robert C. Moscati, pursuant to 28 U.S.C. § 1746, hereby declare, under penalty of perjury of the laws of the United States of America, that the following statements are true and correct to the best of my knowledge, information, and belief:

1. I am a United States Army reservist, currently serving on active duty as the Deputy Chief Prosecutor (DCP), Office of the Chief Prosecutor (OCP), Office of Military Commissions (OMC). I have served continuously in this position since April 1, 2014. As the DCP, I assist the Chief Prosecutor (CP) in managing and directing over 130 attorneys, paralegals, analysts, agents, and other military and civilian professionals engaged in the prosecution of detainees accused of violating criminal offenses set forth in the Military Commissions Act of 2009 (MCA), to include the prosecution of five detainees accused of planning and implementing the September 11, 2001, terrorist attacks. *See United States v. Khalid Shaikh Mohammad, et al.*. An additional mission of OCP is to continuously evaluate

evidence with a view toward possible future prosecutions under the provisions of the MCA. While serving as DCP, I was detailed for approximately 12 months as the lead Trial Counsel in the prosecution of Abd al Rahim Hussayn Muhammad al Nashiri, who is accused of planning the bombing of the U.S.S. Cole in Yemen. My full-time, civilian position is as an Assistant United States Attorney (AUSA) in the United States Attorney's Office (USAO), Western District of New York, and I have been so employed since 1990. During my tenure as an AUSA, I have served in the Organized Crime, Narcotics and Violent Crime, National Security, and Fraud & Corruption sections of the USAO. While an AUSA, I was detailed to the Guantanamo Review Task Force (Task Force) from 2009 to 2010. My duties with the Task Force included reviewing the files of Guantanamo detainees, including both classified and unclassified evidence and intelligence, in order to draft memoranda making recommendations as to the future dispositions of the detainees. During this period, I was trained on the authorities, policies and procedures governing the work of the Task Force, and drafted a number of the aforementioned memoranda in accordance therewith. I have recently reviewed many of the memoranda which are the subject of this action, and which are discussed, *infra*, and know these to be the memoranda I am familiar with from my work on the Task Force. I make this declaration in support of defendant the Department of Justice's Motion for Summary Judgment.

2. I am familiar with the plaintiffs' Freedom of Information Act ("FOIA") request, dated June 13, 2016, sent to DOJ and the Office of the Director of National Intelligence, for "the threat assessments of Guantanamo detainees produced by the six-agency executive order task force appointed in 2009 to review each remaining prisoner and led by Matt Olsen."

3. The responsive records in this case consist of the "threat assessment" portions of memoranda created by the Task Force, which compiled and reviewed information pertaining to

individuals then detained at Guantanamo Bay, Cuba, and prepared written recommendation memoranda setting forth issues for consideration by the final decision-makers responsible for determining the disposition of detainees. The threat assessments at issue in this case contain a substantial amount of DoD information. Therefore, while DoD is not a party to this case, it has a substantial interest in the outcome of the litigation and has been consulted by DOJ.

4. Portions of the records responsive to plaintiffs' FOIA request are exempt from release pursuant to Exemption 7(A), 5 U.S.C. § 552(b)(7)(A), as release would reasonably be expected to interfere with ongoing or pending law enforcement proceedings. The purpose of this declaration is to explain DoD's assertion of Exemption 7(A) in certain threat assessments that are responsive to Plaintiffs' FOIA request. The statements in this declaration are based upon my personal knowledge, the personal knowledge of persons whom I oversee and supervise, and upon my review of information available to me in my official capacity.

5. Before an agency can invoke any of the harms enumerated in Exemption 7, it must first demonstrate that the records or information at issue were compiled for law enforcement purposes. The goal of the Task Force was to determine the appropriate disposition of individuals detained at Guantanamo Bay, including a determination of whether criminal prosecution was feasible or appropriate in certain circumstances. *See* E.O. 13,492 § 4(c)(3). Therefore, the responsive records were compiled, in part, for a law enforcement purpose and readily meet the threshold requirement of Exemption 7.

6. FOIA Exemption 7(A) affords protection to all law enforcement information that "could reasonably be expected to interfere with enforcement proceedings." A two-step analysis is required for this exemption: (1) a determination must be made as to whether a law enforcement proceeding is pending or expected, and (2) release of the information could

reasonably be expected to cause articulable harm. The enforcement proceedings need not be currently ongoing; it suffices for them to be “reasonably anticipated.” Law enforcement proceedings for several detainees are ongoing, or may reasonably occur in the future.

Additionally, some detainees, regardless of whether they might be prosecuted in either an Article III court or a military commission, potentially have value as witnesses in other cases. Release of the information contained in the threat assessments, which may include candid assessments of potential evidentiary weaknesses or other concerns with the viability or feasibility of the potential prosecution of a particular detainee, could either impair the prosecution’s case against certain detainees, or might adversely affect the fairness of ongoing or future criminal proceedings. Accordingly, certain information in some of the threat assessments has been withheld pursuant to Exemption 7(A) to prevent this type of harm.

I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and information.

Dated this <sup>27<sup>th</sup></sup>~~27~~ day of March, 2017, in McLean, VA.

A handwritten signature in black ink, appearing to read "Robert C. Moscati", written over a horizontal line.

Robert C. Moscati  
Colonel, U.S. Army  
Deputy Chief Prosecutor

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

<hr/>		)	
NEW YORK TIMES COMPANY		)	
and		)	
CHARLIE SAVAGE,		)	
		)	
	Plaintiffs,	)	
v.		)	16 Civ. 6120 (RMB)
		)	
U.S. DEPARTMENT OF JUSTICE,		)	
		)	
	Defendant.	)	
<hr/>		)	

**DECLARATION OF ERIC F. STEIN**

Pursuant to 28 U.S.C. § 1746, I, Eric F. Stein, declare and state as follows:

1. I am the Director of the Office of Information Programs and Services (“IPS”) of the United States Department of State (the “Department” or “State”), and have served in this capacity since January 22, 2017. Previously, I was the Acting Director since October 16, 2016, and Acting Co-Director since March 21, 2016. I am the Department official immediately responsible for responding to requests for records under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, the Privacy Act of 1974, 5 U.S.C. § 552a, and other applicable records access provisions. Prior to serving in this capacity, from April 2013, I worked directly for the Department’s Deputy Assistant Secretary (“DAS”) for Global Information Services (“GIS”) and served as a senior advisor and deputy to the DAS on all issues related to GIS’ offices and programs, which includes IPS.

2. As the IPS Director, I have original classification authority and am authorized to classify and declassify national security information. I make the following statements based upon my personal knowledge, which in turn is based upon information furnished to me in the

course of my official duties. I am familiar with the efforts of Department personnel to process the subject request.

3. The core responsibilities of IPS include: (1) responding to records access requests made by the public (including under the FOIA, the Privacy Act, and the mandatory declassification review requirements of the Executive Order governing classified national security information), by members of Congress, by other government agencies, and those made pursuant to judicial process such as subpoenas, court orders, and discovery requests; (2) records management; (3) privacy protection; (4) national security classification management and declassification review; (5) corporate records archives management; (6) research; (7) operation and management of the Department's library; and (8) technology applications that support these activities.

4. This declaration explains the Department's processing of approximately 300 pages of records sent by the Department of Justice for review of State's equities contained therein, and the FOIA exemptions applied to those documents. A *Vaughn* index being filed by the Department of Justice provides a description of the information withheld and the justifications for those withholdings.

**I. ADMINISTRATIVE PROCESSING OF DOJ CONSULTATION REQUEST**

5. By electronic mail dated June 13, 2016, the New York Times Company and Charlie Savage ("Plaintiffs") submitted a FOIA request to both the Office of the Director of National Intelligence and the Department of Justice seeking "the threat assessments of Guantanamo detainees produced by the six-agency executive order task force appointed in 2009 to review each remaining prisoner and led by Matt Olsen."

6. The threat assessments that are the subject of plaintiffs' FOIA request were portions of recommendation memoranda produced by a task force that was created in 2009, pursuant to an executive order that called for a review of the appropriate disposition of reach remaining detainee. State was among the government agencies that participated in that review.

7. By memorandum dated December 5, 2016, the Department of Justice referred approximately 300 pages of records related to the Plaintiffs' request that contained potential State Department equities to the State Department for consultation.

8. By memorandum dated February 10, 2017, the Department responded to the request for consultation, recommending redaction of Department equities in one document, pursuant to 5 U.S.C. § 552(b)(1), E.O. 13,526, Sections 1.4(b) and 1.4(c).

## II. FOIA EXEMPTIONS CLAIMED

### FOIA Exemption (b)(1) – Classified Information

9. 5 U.S.C. § 552(b)(1) states that records are exempt from disclosure under FOIA where they are:

(A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order . . . .

10. Based upon my personal review of the documents and information furnished to me in the course of my official duties, I have determined that the information withheld under Exemption 1, 5 U.S.C. § 552(b)(1), continues to meet the classification criteria of E.O. 13,526 and that the Department has not previously authorized or officially acknowledged the public release of this information. This information includes information classified at the SECRET level. Section 1.2 of E.O. 13,526 states:

“Secret” shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause serious damage to the national security that the original classification authority is able to identify or describe.

11. Section 6.1(l) of E.O. 13,526 defines “damage to the national security” as follows:

“Damage to the national security” means harm to the national defense or foreign relations of the United States from the unauthorized disclosure of information, taking into consideration such aspects of the information as the sensitivity, value, utility, and provenance of that information.

12. Information withheld in this case under Exemption 1 is properly classified pursuant to Sections 1.4(b) and 1.4(c) of E.O. 13,526. Section 1.4 provides:

Information shall not be considered for classification unless . . . it pertains to one or more of the following: (b) foreign government information; (c) intelligence activities (including covert action), intelligence sources or methods, or cryptology . . .”

13. For information to be properly classified and withheld from disclosure pursuant to Exemption 1, the information must meet all of the following requirements set forth in Section 1.1(a) of E.O. 13,526:

- (1) an original classification authority is classifying the information;
- (2) the information is owned by, produced by or for, or is under the control of the United States Government;
- (3) the information falls within one or more of the categories listed in section 1.4 of [E.O. 13,526]; and
- (4) the original classification authority determines that the unauthorized disclosure of the information reasonably could be expected to result in damage to the national security, which includes defense against transnational terrorism, and the original classification authority is able to identify or describe the damage.

14. In my role as an original classification authority, I have determined that the information withheld pursuant to Exemption 1 is under the control of the United States Government, falls within one or more of the categories listed in Section 1.4 of E.O. 13,526, and



requires classification at the SECRET level because its unauthorized disclosure reasonably could be expected to cause serious damage to the national security.

**Section 1.4(b) – Foreign Government Information**

15. Section 6.1(s) of E.O. 13,526 defines “foreign government information” as follows:

“Foreign government information” means:

- (1) information provided to the United States Government by a foreign government or governments, an international organization of governments, or any element thereof, with the expectation that the information, the source of the information, or both, are to be held in confidence;
- (2) information produced by the United States Government pursuant to or as a result of a joint arrangement with a foreign government or governments, or an international organization of governments, or any element thereof, requiring that the information, the arrangement, or both, are to be held in confidence

....

16. Section 1.1(d) of E.O. 13,526 states:

The unauthorized disclosure of foreign government information is presumed to cause damage to the national security.

17. Portions of the responsive record in which the Department has equities are being withheld pursuant to Exemption 1 because they contain information relating to foreign government information. The ability to obtain information from foreign governments is essential to the formulation and successful implementation of U.S. foreign policy. Release of foreign government information provided in confidence, either voluntarily by the Department or by order of a court, would cause foreign officials to believe that U.S. officials are not able or willing to observe the confidentiality expected in such interchanges. Governments could reasonably be expected to be less willing in the future to furnish information important to the conduct of U.S. foreign relations, and in general less disposed to cooperate with the United

States in the achievement of foreign policy objectives of common interest. In view of the important relationship between the United States and the foreign governments identified in the responsive documents, protecting foreign government information, and in some cases even the fact that information has been provided, is important to our relationship and conduct of foreign relations. Information withheld pursuant to this provision in this case is currently and properly classified pursuant to Section 1.4(b) of E.O. 13,526 and is, therefore, exempt from disclosure under FOIA Exemption 1.

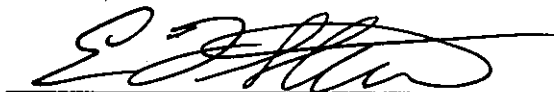
**Section 1.4(c) – Intelligence Activities, Sources, and Methods**

18. Additionally, portions of the responsive record in which the Department has equities are being withheld pursuant to Exemption 1 because they contain information relating to intelligence activities, sources, and methods. Disclosure of this information could provide an insight into U.S. intelligence capabilities and methods to foreign governments, or persons, or entities opposed to the United States and potentially weaken U.S. capabilities. Disclosure of this information could also enable entities opposed to U.S. foreign policy objectives to identify U.S. intelligence activities, sources, or methods and to undertake countermeasures that could frustrate the ability of the U.S. Government to acquire information necessary to the formulation and implementation of U.S. foreign policy. Disclosure “reasonably could be expected to result in damage to the national security,” and the information withheld in this document is currently and properly classified pursuant to Section 1.4(c) of Executive Order 13,526 and is, therefore, exempt from disclosure under FOIA Exemption (b)(1).

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I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 27<sup>th</sup> day of March 2017, Washington, D.C.

A handwritten signature in black ink, appearing to read "Eric F. Stein", written over a horizontal line.

Eric F. Stein

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

THE NEW YORK TIMES COMPANY and	)	
CHARLIE SAVAGE,	)	
Plaintiffs,	)	16 Civ. 6120 (RMB)
	)	
v.	)	
	)	
U.S. DEPARTMENT OF	)	
JUSTICE,	)	
	)	
Defendant.	)	

**DECLARATION OF MARK W. EWING, CHIEF MANAGEMENT OFFICER,  
OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE**

I, Mark W. Ewing, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am the Chief Management Officer (CMO) of the Office of the Director of National Intelligence (ODNI). I have held this position since January 2011. Since joining ODNI in 2005, I have held the positions of Principal Assistant to the Deputy Director of National Intelligence for Customer Outcomes and Special Advisor to the Director of the Intelligence Staff. Prior to joining ODNI, I served as the Deputy Director of the Defense Intelligence Agency from 2000 to 2005. From 1996 to 2000, I was the Assistant Deputy Chief of Staff for Intelligence, Headquarters, Department of the Army. I have an extensive military background and have been involved in all U.S. intelligence disciplines while serving in various command and staff positions. In addition, my military assignments have included posts in Europe, Korea, Vietnam, and Latin America.

2. The position of the ODNI's CMO directs internal ODNI administration, finances, and policy. The CMO component consists of the following six sub-components: (1) The Chief Financial Executive, (2) the Mission Support Division, (3) ODNI Protocol Officer, (4) the

Employee Management Relations Officer, (5) the Corporate Policy Management, and (6) the Executive Secretariat. The Mission Support Division manages ODNI Facilities, Information Technology, National Intelligence Emergency Management Activity, Security/Counterintelligence operations, the Office of Human Resources, and the ODNI Chief Information Officer. As the CMO, I oversee, review and render final agency determinations regarding all FOIA administrative appeals.

3. ODNI's Information Management Division (IMD) provides guidance to ensure consistent information management practices across the Intelligence Community, while managing mandatory information management programs for the ODNI. In this regard, IMD's focus includes the disciplines of records management, classification management, and information review and release, including declassification and controlled unclassified information. One of IMD's responsibilities, among others, includes the facilitation and implementation of information management-related Executive orders, laws, regulations, and ODNI policy. This function entails controlling information throughout its life cycle and includes the areas of records management, classification management and declassification, pre-publication reviews, and responding to requests under the Freedom of Information Act and the Privacy Act.

**I. BACKGROUND INFORMATION ON THE DIRECTOR OF NATIONAL INTELLIGENCE (DNI)  
AND THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE (ODNI)**

4. The United States Intelligence Community includes ODNI; the Central Intelligence Agency (CIA); the National Security Agency (NSA); the Defense Intelligence Agency; the National Geospatial-Intelligence Agency (NGA); the National Reconnaissance Office; other offices within the Department of Defense involved in the collection of specialized national intelligence through reconnaissance programs; the intelligence elements of the Army, the Navy,

the Air Force, the Marine Corps, the Coast Guard, the Federal Bureau of Investigation, the Drug Enforcement Administration, and the Department of Energy; the Bureau of Intelligence and Research of the Department of State; the Office of Intelligence and Analysis of the Department of the Treasury; the Office of Intelligence and Analysis of the Department of Homeland Security; and such other elements of any other department or agency as may be designated by the President, or jointly designated by the DNI and heads of the department or agency concerned, as an element of the Intelligence Community. See 50 U.S.C. § 3003(4); see also Executive Order 12333 (as amended), § 3.5.

5. Congress created the position of the DNI in the Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 108-458, §§ 1101(a) and 1097, 118 Stat. 3638, 3643-63, 3698-99 (2004) (IRTPA) (amending Sections 102 through 104 of Title 1 of the National Security Act of 1947). Subject to the authority, direction, and control of the President, the DNI serves as the head of the U.S. Intelligence Community, and as the principal adviser to the President and the National Security Council for intelligence matters related to the national security. 50 U.S.C. §§ 3023(b)(1), (2).

6. The responsibilities and authorities of the DNI are set forth in the National Security Act of 1947, as amended (the National Security Act). These responsibilities include ensuring that national intelligence is provided to the President, heads of the departments and agencies of the Executive Branch, the Chairman of the Joint Chiefs of Staff and senior military commanders, and the Senate and House of Representatives and committees thereof. 50 U.S.C. § 3024(a)(1). The DNI is charged with establishing the objectives of, determining the requirements and priorities for, and managing and directing the tasking, collection, analysis, production, and dissemination of

national intelligence by elements of the Intelligence Community. 50 U.S.C. §§ 3024(f)(1)(A)(i) and (ii).

7. In addition, the National Security Act provides that the DNI “shall protect intelligence sources and methods from unauthorized disclosure.” 50 U.S.C. § 3024(i)(1). Consistent with this responsibility, the DNI establishes and implements guidelines for the Intelligence Community for the classification of information under applicable law, Executive orders, or other Presidential Directives, and for access to and dissemination of intelligence. 50 U.S.C. § 3024(i)(2)(A), (B). See also Executive Order 12333 § 1.3(b)(8) (stating that the DNI “[s]hall protect, and ensure that programs are developed to protect, intelligence sources, methods, and activities from unauthorized disclosure”). By this language, Congress expressed its determination that disclosure of intelligence sources and methods is potentially harmful and directed the DNI to protect them.

8. Finally, the National Security Act created the ODNI. The function of the ODNI is to assist the DNI in carrying out his duties and responsibilities under the Act and other applicable provisions of law, and to carry out such other duties as may be prescribed by the President or by law.

## **II. ORIGINAL CLASSIFICATION AUTHORITY RESPONSIBILITIES**

9. Under a written delegation of authority by the DNI pursuant to Section 1.3(c) of Executive Order 13526, I hold original classification authority (OCA) at the TOP SECRET level. I am authorized, therefore, to conduct classification reviews and to make original classification and declassification decisions for ODNI’s intelligence information up to and including the TOP SECRET level. Section 1.1 of E.O. 13526 provides that information may be originally classified

if: (1) an OCA is classifying the information; (2) the information is owned by, produced by or for, or is under the control of the U.S. Government; (3) the information falls within one or more of the categories of information listed in section 1.4 of the E.O., and (4) the OCA determines that the unauthorized disclosure of the information reasonably could be expected to result in damage to the national security, and the OCA is able to identify or describe the damage. Section 1.2(a) of E.O. 13526 provides that information should be classified at the TOP SECRET level if its unauthorized disclosure reasonably could be expected to cause exceptionally grave damage to the national security. Information should be classified at the SECRET level if its unauthorized disclosure reasonably could be expected to cause serious damage to the national security. At the time information is classified, it is normally assigned a date for declassification, often 25, 50, or even 75 years from the date of creation. However, prior to any declassification, the information is normally reviewed to ensure that there would be no harm to national security if declassified.

### **III. DISCUSSION OF FOIA EXEMPTIONS PROTECTING CLASSIFIED INFORMATION**

10. Through the exercise of my official duties, I have become familiar with this civil action and the underlying Freedom of Information Act (FOIA) request dated June 13, 2016. Pursuant to the FOIA, 5 U.S.C. § 552, as amended, the plaintiffs in the above-captioned matter requested access to certain threat assessments relating to Guantanamo detainees. The requested threat assessments were portions of recommendation memoranda produced by a task force that was created in 2009 pursuant to an executive order that called for a review of the appropriate disposition of each remaining detainee. I make the following statements based upon my personal knowledge and information made available to me in my official capacity.

11. I submit this declaration in support of defendant the Department of Justice's (DOJ) Motion for Summary Judgment, to be filed on March 27, 2017. The purpose of this declaration is



to explain and justify, to the extent possible on the public record, the assertion by certain members of the Intelligence Community of FOIA exemptions (b)(1) and (b)(3) with respect to portions of the records responsive to Plaintiff's FOIA request.

**a. 5 U.S.C. § 552(b)(1)**

12. Exemption 1 provides that FOIA does not require the production of records that are: “(A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order.” 5 U.S.C. § 552(b)(1). Portions of the records at issue in this litigation satisfy the procedural and the substantive requirements of Executive Order 13526, which governs classification. *See* E.O. 13526 §§ 1.1(a), 1.4.

13. Additionally, this information is owned by, and is under the control of, the U.S. Government. As described below, the information falls under classification categories §§ 1.4(b), 1.4(c), and 1.4(d) of the Executive Order because it concerns “foreign government information” (§ 1.4(b)), “intelligence activities (including covert action), [or] intelligence sources or methods” (§ 1.4(c)), and “foreign relations or foreign activities of the United States, including confidential sources” (§ 1.4(d)). Unauthorized disclosure of this material could reasonably be expected to result in damage to national security. None of the information at issue has been classified in order to conceal violations of law, inefficiency or administrative error; prevent embarrassment to a person, organization or agency; restrain competition; or prevent or delay the release of information that does not require protection in the interests of national security. Further, the responsive documents are properly marked in accordance with § 1.6 of the Executive Order.

14. More specifically, the classified material contained in the records responsive to plaintiffs' request consists of information about signals intelligence (SIGINT), including SIGINT sources and methods; human intelligence sources; details about foreign liaison services; current locations of covert installations; and descriptions of specific intelligence methods and activities, including certain counterterrorism techniques; and classification and dissemination control markings. As described below, disclosure of these details—including disclosure of whether intelligence sources or methods were or were not successfully used to collect information concerning any specific detainee, or whether information concerning any specific detainee does or does not implicate foreign government information or the foreign relations and foreign activities of the United States—would reveal intelligence sought by the Intelligence Community and the means by which it is acquired, which could reasonably be expected to cause harm, and in some instances exceptionally grave damage, to the United States' continued ability to collect this information and to relationships with foreign partners.

15. Signals Intelligence Sources. Some of the information contained in the responsive records consists of intelligence obtained from SIGINT, which is properly classified pursuant to E.O. 13526 §§ 1.4(b), 1.4(c), and 1.4(d). NSA's foreign intelligence mission includes the responsibility to collect, process, analyze, produce, and disseminate SIGINT information, of which communications intelligence is a significant subset, for (a) national foreign intelligence purposes, (b) counterintelligence purposes, and (c) the support of military operations. See E.O. 12333,

§ 1.7(c), as amended. In performing its SIGINT mission, NSA exploits foreign electromagnetic signals to obtain intelligence information necessary to the national defense, national security, or the conduct of foreign affairs. Release of this information would compromise NSA's current sensitive SIGINT capabilities. Given the risk of jeopardizing NSA's current sources and methods, the portions of these documents that implicate this information remain currently and properly classified at up to the Top Secret level.

16. Human Intelligence Sources. Some of the information contained in the responsive records consists of intelligence gathered by clandestine human sources, which is properly classified pursuant to E.O. 13526 §1.4(c). These human sources are often uniquely situated to report on specific subjects and, accordingly, provide critical information that cannot be otherwise obtained. The Intelligence Community takes extreme measures to ensure that human sources are not compromised. In the context of these responsive records, disclosing descriptions of these sources and the intelligence that they provide would tend to reveal their identities – either explicitly or by virtue of their access to certain intelligence or involvement in certain events. Release of this information could reasonably be expected to cause harm to the persons referenced in the reports, damage relations with other confidential sources, and undermine the Intelligence Community's ability to recruit similarly-situated individuals in the future.

17. Foreign Liaison Relationships and Foreign Government Information. Portions of the responsive records contain information about foreign liaison relationships and foreign government information, which is properly classified pursuant to E.O. 13526 §§ 1.4(b), 1.4(c), and 1.4(d). A foreign liaison relationship is a cooperative and secret relationship between a member of the Intelligence Community and an entity of a foreign government. This relationship constitutes both an intelligence source and method and pertains to the foreign relations and foreign activities

of the United States. Further, in the information provided by foreign liaison is foreign government information, and Section 1.1(d) of E.O. 13526 specifically provides that “[t]he unauthorized disclosure of foreign government information is presumed to cause damage to the national security.” Foreign liaison services and foreign government officials, including those whose information is contained in the documents at issue, provide sensitive intelligence to the Intelligence Community in confidence. In order to ensure the uninterrupted flow of that information, the Intelligence Community protects the content of those communications as well as the mere fact of the existence of the U.S. Government’s relationships with particular intelligence services and foreign government officials. Disclosure of these details could damage relations with the entities mentioned in the records and with other foreign partners working with the Intelligence Community, who may discount future assurances that information will be kept confidential. This, in turn, could reasonably be expected to harm intelligence sharing and cooperation on other areas of importance to the national security.

18. Field Installations. Portions of the responsive records also contain details regarding the current locations of covert Intelligence Community installations abroad, which is properly classified pursuant to E.O. 13526 §§ 1.4(c), and 1.4(d). The places where the Intelligence Community maintains a presence constitutes an intelligence method. Official acknowledgment that the Intelligence Community has a facility in a particular location abroad could cause the government of the country in which the installation is or was located to take countermeasures, either on its own initiative or in response to public pressure, to eliminate the presence within its borders or curtail cooperation. Disclosing the location of a particular facility and identifying the specific U.S. Government agency that operates certain facilities could result in terrorists and foreign intelligence services targeting that installation and the persons associated with it. As

discussed above, damage to relationships with foreign governments could harm the Intelligence Community's continued ability to obtain accurate and timely foreign intelligence.

19. Intelligence Methods and Activities. Portions of the responsive records also contain details that would disclose other intelligence methods and activities, which are properly classified pursuant to E.O. 13526 § 1.4(c). Intelligence methods are the means by which the Intelligence Community accomplishes its mission. Intelligence activities refer to the actual implementation of intelligence methods in an operational context. Intelligence activities are highly sensitive because their disclosure often would reveal details regarding specific methods which, in turn, could provide adversaries with valuable insight into intelligence operations that could impair the effectiveness of intelligence collection. For example, details about certain intelligence gathering techniques and tradecraft have been, and continue to be, used in a range of operations and activities, including current counterterrorism operations. Revealing this information would tend to show the breadth, capabilities, and limitations of the U.S. Government's intelligence collection or activities. Such disclosures could provide adversaries with valuable insight into intelligence operations that would damage their effectiveness. Adversaries could use this information to develop measures to detect and counteract the intelligence methods and the operational exercise of those methods.

20. Classification and Dissemination-Control Markings. The responsive records also contain classification and dissemination-control markings, which are among the intelligence methods used to control the dissemination of intelligence-related information and protect it from unauthorized disclosure, and which are properly classified pursuant to E.O. 13526 §§ 1.4(b) and 1.4(c). These markings indicate the overall classification level as well as the classification of discrete portions of a document, the presence of any compartmented information, and the limits

on disseminating the information, which, in turn, would reveal details about the sensitivity and content of the underlying intelligence and indicate restrictions on access and handling. Disclosure of these markings would reveal or highlight areas of particular intelligence interest, sensitive collection sources or methods, foreign sensitivities, and procedures for gathering, protecting, and processing intelligence. Accordingly, the release of this information could reasonably be expected to cause damage to national security.

21. As noted above, publically revealing whether responsive records concerning a particular detainee contain or do not contain information gathered by certain members of the Intelligence Community pursuant to certain intelligence collection sources and methods, involve foreign government information and or liaison relationships, or implicate the foreign relations or foreign activities of the United States, could itself be reasonably expected to cause serious damage to the national security. For example, once the success of an intelligence source or method is disclosed, its value is diminished, and its potential for successful use in the future is seriously jeopardized. The public disclosure that particular intelligence information relating to a particular detainee was gathered (or not gathered) by certain members of the Intelligence Community through certain means, including through foreign liaison relationships, would indicate to the public and to foreign intelligence agencies how the Intelligence Community is allocating its resources and would provide targets of intelligence collection and foreign intelligence agencies with information on how best to array their counterintelligence resources. To collect and analyze intelligence most successfully, and to protect against possible harm to U.S. sources, methods, and foreign relations, these members of the Intelligence Community must prevent identification of the specific detainees about whom certain types of information has been gathered. To protect these interests, DOJ is submitting herewith a classified, *ex parte* index for the Court's *in camera* review.

That index specifies for the Court the particular detainees for whom the exemptions described in this declaration apply.

22. For all of the reasons discussed above, the Intelligence Community cannot disclose certain information contained in the responsive records that pertains to foreign government information, intelligence sources, intelligence methods, intelligence activities, and foreign relations or foreign activities. I have determined that this information remains currently and properly classified pursuant to the criteria of Executive Order 13526, as its disclosure could reasonably be expected to cause damage to the national security of the United States.

**b. 5 U.S.C. § 552(b)(3)**

23. Exemption 3 protects information that is specifically exempted from disclosure by statute. A withholding statute under Exemption 3 must (A) require that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establish particular criteria for withholding or refer to particular types of matters to be withheld. 5 U.S.C. § 552(b)(3).

24. Section 102A(i)(1) of the National Security Act, 50 U.S.C. § 3024, which provides that the Director of National Intelligence “shall protect intelligence sources and methods from unauthorized disclosure,” has been widely recognized by courts to constitute a withholding statute in accordance with Exemption 3. Portions of the records at issue in this litigation constitute intelligence sources and methods (as well as the operational exercise of those methods), and those portions are properly exempt from disclosure under the National Security Act. Although no harm rationale is required, for the reasons discussed above, the release of this information could significantly impair the Intelligence Community’s ability to carry out its core missions.

25. Portions of the records at issue in this litigation are also properly exempt from disclosure pursuant to a statutory privilege unique to NSA. As set forth in Section 6 of the NSA Act, Public Law 86-36 (50 U.S.C. § 3605), “[n]othing in this Act or any other law . . . shall be construed to require the disclosure of the organization or any function of the National Security Agency, [or] of any information with respect to the activities thereof. . . .” Congress, in enacting the language in this statute, decided that disclosure of any information relating to NSA activities is potentially harmful. Federal courts have held that the protection provided by this statute is, by its very terms, absolute. Section 6 states unequivocally that, notwithstanding any other law, including the FOIA, NSA cannot be compelled to disclose any information with respect to its activities. To invoke this privilege, the Government must demonstrate only that the information it seeks to protect falls within the scope of Section 6. Further, while in this case the harm would be exceptionally grave or serious, the Government is not required to demonstrate specific harm to national security when invoking this statutory privilege, but only to show that the information relates to its activities. NSA’s functions and activities are therefore protected from disclosure regardless of whether the information is classified.

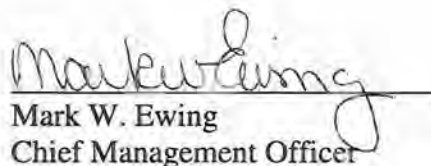
26. Portions of the records at issue in this litigation are also properly exempt from disclosure pursuant to 18 U.S.C. § 798. This statute prohibits the unauthorized disclosure of classified information: (i) concerning the communications intelligence activities of the United States, or (ii) obtained by the process of communications intelligence derived from the communications of any foreign government. The term “communications intelligence,” as defined by Section 798, means the “procedures and methods used in the interception of communications and the obtaining of information from such communications by other than the intended recipients.”



27. As described above, these statutes protect the fragile nature of the United States' intelligence sources, methods, and activities, including but not limited to the existence and depth of signals intelligence-related successes, weaknesses, and exploitation techniques, human intelligence sources, and foreign relationships. These statutes recognize the vulnerability of intelligence sources and methods, including countermeasures, and the significance of the loss of valuable intelligence information to national policymakers and the Intelligence Community. Given that Congress specifically prohibited the disclosure of the sources and methods used by the Intelligence Community, as well as any information related to NSA's functions and activities, I have determined that the information was properly withheld under FOIA Exemption 3. Further, for the reasons explained in paragraph 21, supra, publicly revealing whether responsive records concerning a particular detainee contain or do not contain certain types of intelligence information could itself cause serious damage to the national security. Accordingly, to protect these interests, DOJ is submitting a classified, ex parte index for the Court's in camera review, specifying the particular records to which Exemption 3 applies.

I certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 24 day of March, 2017.

  
Mark W. Ewing  
Chief Management Officer