

UNITED STATES OF AMERICA

v.

KHALID SHAIKH MOHAMMAD, WALID  
MUHAMMAD SALIH MUBARAK BIN  
‘ATTASH, RAMZI BIN AL SHIBH, ALI  
ABDUL-AZIZ ALI, MUSTAFA AHMED  
ADAM AL HAWSAWI

**AE177 (WBA)**  
**Defense Motion to Compel Production of  
Discovery of Information Related to  
Government Intrusion Into Electronic or  
Physical Spaces Containing Defense-Related  
and/or Defense-Produced Materials**

19 June 2013

1. **Timeliness:** This motion is timely filed.
2. **Relief Requested:** The defense respectfully requests that the Commission compel the production of all records and identities of individuals regarding *any* intrusion into electronic or physical spaces containing defense-related and/or defense-produced materials made between 2008 and the present, by persons other than defense counsel and their teams.<sup>1</sup>
3. **Overview.** The requested documents/information is relevant and necessary to the motions hearing on 17-21 June 2013, and subsequent hearings. Failure to compel the government to disclose the requested materials and information will deny Mr. bin ‘Attash his rights to the due process of law, to the effective assistance of counsel, a fair, speedy, and public trial, and to be free from cruel and unusual punishment, guaranteed by the Fifth, Sixth, and Eighth Amendments to the United States Constitution and/or other provisions of U.S. and international law.

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<sup>1</sup> The Defense maintains its objection to the Commission's ruling on AE 36, which erroneously ignores the plain language of 10 U.S.C. 949j(a). Nonetheless, to comply with the Commission's Trial Conduct Order improperly applying R.M.C. 703 to these proceedings, the Defense provides pertinent contact information and a summary of expected testimony for the requested witnesses.

4. **Burden of Proof and Persuasion:** As the moving party, the defense bears the burden on this motion. R.M.C. 905(c).

5. **Facts:**

a. Starting in August 2012, defense counsel for Mr. bin 'Attash noticed that a Washington Headquarters Service ("WHS") employee by the name of [REDACTED] had access to all bin 'Attash files on the network's shared O: drive. [REDACTED] was not assigned to the bin 'Attash defense team nor was he assigned to the Office of the Chief Defense Counsel ("OCDC"). Despite inquiries into the matter and to have him removed, Mr. [REDACTED] had access to bin 'Attash network files through November 2012. (See Attachments B, C, & D).

b. In mid-April 2013, OCDC personnel received a directive from the CDC that network integrity, and consequently confidentiality, could not be assured. (Attachment E). As a result of that directive, Michel Paradis, lead counsel for U.S. v. Bahlul, made the decision that his team would remove all their case files from the exposed network files to an external storage unit. Once backups of files were generated, Mr. Paradis personally deleted the entire contents of the Bahlul folder on the exposed network's O: Drive, with the exception of approximately 10-15 files. These included, inter alia, correspondence with Mr. Paradis' client, as well as drafts of pleadings. A subsequent Windows error message indicated that Mr Paradis did not have the necessary permissions to delete these remaining files.

As Mr. Paradis examined the advanced properties for these files, he discovered that [REDACTED] was identified as the files' top-level owner, thus prohibiting Mr. Paradis from deleting his own files. Mr. Paradis contacted Mr. [REDACTED] to inquire why he

owned several of his client's files. Mr. [REDACTED] explained that he had very little to do with OMC's file system, but that the likely explanation was residual error from when OMC migrated from the OGC's servers to the OSD's servers in early 2009.

Mr. [REDACTED] then went on to explain that the Office of General Counsel ("OGC") did not want Enterprise Information Technology Services Directorate ("EITSD") to create a "trust" with the Office of Secretary of Defense's ("OSD") servers, which Mr. [REDACTED] described as a direct link between OGC and OSD through which the files could be migrated. According to Mr. [REDACTED] OGC was not confident of the OSD network's security, and did not want to open its servers to OSD contractors. Mr. [REDACTED] explained that he had to manually transfer the files from OGC's servers to OSD's servers. According to Mr. [REDACTED] he was given ownership over all OMC files, in order to copy those files, and then to recopy them to OSD's servers. Once all of the files were copied to the OSD's server, OSD Operations was supposed to restore the permissions to the original owners.

Mr. Paradis then inquired why Mr. [REDACTED] was also the owner of at least one of the files on the O: drive that had only been created in February 2010, a year after this migration occurred. Mr. [REDACTED] indicated that he knew why, but did not feel comfortable speaking about it in detail. He indicated that [REDACTED] was in charge of that operation and should take it up with him.

When pressed further on the topic, Mr. [REDACTED] indicated that "data was being written into the wrong place." He stated that data was being stored in the "wrong location" and he was called in to move it to the "right location." He suggested that defense files were finding their way into the prosecution's network folders and that his

job was to move the files back. When asked by Mr. Paradis about how much data he moved, Mr. [REDACTED] responded that it "wasn't a small amount," stating that it filled "a couple of drives."

c. In a recent petition for extraordinary relief filed in the United States Court of Military Commission Review ("U.S.C.M.C.R.") on behalf of Mr. Ibrahim Ahmed Mahmoud al Qosi, that Court ordered the government to produce "copies of any communications, or records thereof, between the Government, and the Petitioner or any member of the Petitioner's trial defense team or Appellate Defense Counsel regarding waiver or withdrawal of appellate review, not otherwise included in the authenticated Record of Trial, and occurring during the period August 10, 2010 through February 12, 2013." *Ibrahim Ahmed Mahmoud al Qosi v. United States*, No. 13-001, Order (U.S.C.M.C.R. Feb. 12, 2013).

Instead of searching their own email files and Microsoft Outlook Personal Storage Tables ("PST"), counsel in the Office of the Chief Prosecutor ("OCP"), via the Security Manager then located in the Office of the Convening Authority ("OMC-CA"), requested EITSD to perform a search of archived electronic communications of three OCP prosecutors for email communications. Unfortunately, confusion among OCP, OMC-CA Security personnel and EITSD resulted in a search not limited to only the email mailboxes of the three named prosecutors; it included certain defense email mailboxes as well.

On March 21 and March 22, 2013, EITSD provided OCP counsel with a number of PST files containing the results of their search pursuant to the Court's order. Late on the afternoon of Friday, 22 March 2013, one OCP counsel opened the first PST folder,

and then opened the first four or five emails contained therein. All but the last of those emails were between a member of Mr. al Qosi's trial defense team and a member of the prosecution team. The final email opened was from a member of the trial defense team and was addressed solely to other members of the al Qosi defense team. The salutation was "team," or some similar word. According to the government's Notice (Attachment F) OCP counsel read no further and immediately closed the email and the folder.

On March 26, OCP counsel notified CAPT Mary McCormick, Mr. al Qosi's appellate defense counsel, and the U.S.C.M.C.R. Clerk of Court of the disclosure. OCP counsel and CAPT Mary McCormick agreed that these search results should be deleted. EITSD then deleted them.

On Monday morning, 25 March 2013, OCP counsel spoke directly with the EITSD Investigative Search Request ("ISR") Supervisor, [REDACTED] who explained that EITSD would need to again execute the search to exclude intra-defense communications. Counsel emphasized that the search should examine only email accounts of three named prosecution team members, and must not include any emails solely between or among defense team members. The EITSD ISR Supervisor assured OCP counsel that the new search would not involve any defense counsel mailboxes.

EITSD completed this second search on 27 March 2013. Out of an abundance of caution, OCP counsel requested that EITSD not turn over the search results directly to the prosecution. Instead, three DoD attorneys were provided access to the results of the search. Although it was anticipated that this search would not turn up internal defense communications, these lawyers were instructed, again out of an abundance of caution, to

examine only the “to,” “from,” and “cc” fields to determine if any of the responsive were internal defense communications.

OCP counsel then worked with EITSD ISR technicians to develop a third search that, again, would yield documents they were seeking but omit internal communications between, and among, defense team members alone. EITSD completed this third search on Thursday, 28 March 2013, but these search results have not yet been viewed by anyone, as U.S.C.M.C.R. issued an order on 1 April 2013, directing the government to cease further efforts to search for communications responsive to its February 12th order.

d. Mr. [REDACTED] is the point of contact for all EITDS search requests. Mr. [REDACTED] is familiar with the process and the Standard Operating Procedures (“SOPs”) that govern ISR requests. According to Mr. [REDACTED] all ISRs begin with [REDACTED] who keeps a complete record of ISR requests by entering the requests into the Staff Action Control and Coordination Portal (“SACCP”). Mr. [REDACTED] believes that he has conducted approximately three or four OMC prosecution ISRs in the past, but cannot remember whether or not there were court orders for those 3-4 requests.

e. On 3 June 2013, counsel for Mr. bin ‘Attash filed a discovery request, requesting that the government produce information regarding any intrusion into electronic or physical spaces containing defense-related and/or defense-produced materials between 2008 and the present. (Attachment G).

f. On 10 June 2013, the prosecution responded to the defense request for discovery, denying that “the United States Government is listening, monitoring, or recording privileged communications between the five Accused and their counsel at any location where the attorneys meet their clients in Guantanamo Bay.” The prosecution response

further answered that “the information contained within AE 154 and its attachment is responsive to the Defense discovery request as it provides a detailed accounting of the court-ordered production of electronic communications.” (Attachment H).

**7. Law & Argument:**

a. Rule for Military Commission (R.M.C.) 701(j) establishes the standard for discovery in military courts: “Each party shall have adequate opportunity to prepare its case and no party may unreasonably impede the access of another party to a witness or evidence.” In passing the Military Commissions Act (MCA) of 2009, Congress mandated this process. *See* 10 U.S.C. § 949j (“The opportunity to obtain witnesses and evidence shall be comparable to the opportunity available to a criminal defendant in a court of the United States under article III of the Constitution.”). An accused is entitled to inspect both exculpatory and inculpatory evidence. *See Brady v. Maryland*, 373 U.S. 83 (1963); *United States v. Kern*, 22 M.J. 49, 51 (C.M.A. 1986); *see generally, Kyles v. Whitley*, 514 U.S. 419, 437 (1995) (“the individual prosecutor has a duty to learn of any favorable evidence known to the others acting on the government's behalf in the case, including the police.”).

Under the Sixth Amendment, an accused also has the right to conduct a full and fair examination of witnesses. *See Pointer v. Texas*, 380 U.S. 400, 405 (1965) (“There are few subjects, perhaps, upon which this Court and other courts have been more nearly unanimous than in their expressions of belief that the right of confrontation and cross-examination is an essential and fundamental requirement for the kind of fair trial which is this country's constitutional goal.”)

The ends of justice are best served, therefore, “by a system of liberal discovery which gives both parties the maximum possible amount of information with which to prepare their cases and thereby reduces the possibility of surprise at trial.” *Wardius v. Oregon*, 412 U.S. 470, 473 (1973). Military courts recognize “a much more direct and generally broader means of discovery by an accused than is normally available to him in civilian courts.” *United States v. Reece*, 25 M.J. 93, 94 (C.M.A. 1987). With respect to discovery, “military law has been preeminent, jealously guaranteeing to the accused the right to be effectively represented by counsel through affording every opportunity to prepare his case by openly disclosing the Government’s evidence.” *United States v. Enloe*, 15 U.S.C.M.A. 256 (C.M.A. 1965). The rules pertaining to discovery focus on equal access to evidence to aid the preparation of the defense and enhance the orderly administration of military justice. *United States v. Roberts*, 59 M.J. 323, 325 (C.A.A.F. 2004).

b. The government has a discovery obligation to make available to an accused statements or other relevant material within the possession, custody or control of the government, the existence of which is known, or by the exercise of due diligence may become known to the government. FED. R. CRIM P. 16(a).

c. On 3 June 2013, counsel for Mr. bin ‘Attash requested the production of *all* JTF-GTMO orders, directives, “JQRs” and Standard Operation Procedures (SOPs) governing the search and seizure of attorney-client communications, to include JDG Procedure [REDACTED] [REDACTED] JDG SOP [REDACTED]. Though the prosecution did provide the three by-name SOPs requested, they have failed to provide any JTF-GTMO orders, directives, “JQRs” and SOPs governing search and seizure of

attorney-client prior to March of 2013. The prosecution gave no legal or factual basis to the Defense as to why orders, directives, “JQRs” and SOPs, prior to 2013 had not been provided as requested. **Again, the Defense requests all JTF-GTMO orders, directives, “JQRs” and Standard Operation Procedures (SOPs) governing the search and seizure of attorney-client communications prior to 2013.**

d. Additionally, [REDACTED] has provided information that there have been approximately 3-4 other possible intrusions into Defense electronic workspaces. Mr. [REDACTED] told OCDC investigators that he has conducted in the past 3-4 other search requests by OMC prosecution. Again, the government failed to use due diligence to provide any discovery regarding this intrusion into OCDC emails as acknowledged by Mr. [REDACTED]. According to the SOP used by the Chief Information Office (CIO), an ISR formally begins when it is received by the Administrative Personnel Management (APMD) representative and logged it in to the SACCP. Therefore, the SACCP should contain the relevant information to determine whether or not, and how many times, the OCP has made ISR requests. Certainly, the prosecution should have records of the searches they have requested. **Therefore, the Defense requests the SACCP ISR logs and the prosecution’s requests from 2008 to the present be disclosed to the Defense.**

e. Likewise, another government official, [REDACTED] has stated that OCDC files have been accessed by non-OCDC personnel during and after the 2009 migration. **Therefore, the Defense requests information and the names of personnel who directed and/or assisted Mr. [REDACTED] with the migration of OCDC files. The Defense has already requested Mr. [REDACTED] as a witness.**

f. The prosecution has failed to comply with applicable law with regard to the Defense Request for Production of Records and Identities of Witnesses, dated 3 June 2013. The government has exercised no diligence in determining what evidence of governmental intrusion into defense electronic and physical spaces. The government has ignored its duties to make reasonable inquiry into the Defense request.

**8. Oral Argument:** The Defense requests oral argument in connection with this motion.

**9. Witnesses:**

- a. [REDACTED]
- b. [REDACTED]
- c. [REDACTED]
- d. [REDACTED]
- e. Michel Paradis

**10. Conference with Opposing Counsel:** The defense has already requested the material from the government. The government objects to the proposed relief.

**11. List of Attachments:**

- A. Certificate of Service
- B. email correspondence between Capt Schwartz and IT, 6 Aug 12 (1 pg.)
- C. email correspondence between Capt Schwartz and IT, dated 25 Oct 12 (2 pgs.)
- D. email correspondence between Capt Schwartz and IT, dated 15 Nov 12 (2 pgs.)
- E. email Directive Regarding OCDC Personnel Use of the WHS Enterprise Network for Confidential or Privileged Material, dated 10 Apr 13 (1 pg.)
- F. AE 154, Government Notice of Events Related to Protection of Privileged Materials, dated 8 April 2013 (3 pgs.)

G. Defense Request for Production of Records and Identities of Witnesses, dated 3 June 2013 (3 pgs.)

H. Prosecution Response to 3 June 2013 Request for Discovery, dated 10 June 2013 (2 pgs.)

Very respectfully,

//s//  
CHERYL T. BORMANN  
Learned Counsel

//s//  
JAMES D. HATCHER  
LCDR, USN  
Defense Counsel

//s//  
MICHAEL A. SCHWARTZ  
Capt, USAF  
Defense Counsel

# Attachment A

**CERTIFICATE OF SERVICE**

I certify that on 19 June 2013, I electronically filed the forgoing document with the Trial Judiciary and served it on all counsel of record by email.

*//Signed//*

MICHAEL A. SCHWARTZ, Capt, USAF  
Defense Counsel

# Attachment B

**From:** [REDACTED]  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** Who is [REDACTED]?  
**Date:** Monday, August 06, 2012 4:58:00 PM  
**Attachments:** [REDACTED]

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[REDACTED]

I was noticing on the properties of what looks to be all of the documents in our shared folder that a Mr. [REDACTED] from WHS has access to our files. Do you know who this is?

Mike

MICHAEL A. SCHWARTZ, Capt, USAF  
Defense Counsel  
Office of the Chief Defense Counsel

[REDACTED]

This communication may contain information protected by the attorney work product doctrine and/or attorney-client privilege.

# Attachment C

**From:** [REDACTED]  
**To:** [REDACTED]  
**Subject:** FW: [REDACTED]  
**Date:** Monday, April 08, 2013 8:06:20 PM

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-----Original Message-----

**From:** Schwartz, Michael A Capt OSD OMC Defense  
**Sent:** Thursday, October 25, 2012 3:22 PM  
**To:** [REDACTED] CIV OSD OMC Defense; [REDACTED] F CTR WHS-EITSD  
**Cc:** Bormann, Cheryl T CIV OSD OMC Defense; Hatcher, James LCDR OSD OMC Defense; Hennessy, William T MAJ OSD OMC Defense; Obrien, Terry A LtCol OSD OMC; [REDACTED] TSgt OSD OMC Defense; [REDACTED] SSG OSD OMC Defense; [REDACTED] CTR OSD OMC  
**Subject:** RE: [REDACTED]

He's on the properties for what appears to be every document in our shared folder. Maybe I'm not interpreting the properties page correctly, but it looks like he has access to everything.

MICHAEL A. SCHWARTZ, Capt, USAF  
Defense Counsel  
Office of the Chief Defense Counsel



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-----Original Message-----

**From:** [REDACTED] CIV OSD OMC Defense  
**Sent:** Thursday, October 25, 2012 3:16 PM  
**To:** Schwartz, Michael A Capt OSD OMC Defense; [REDACTED] CTR WHS-EITSD  
**Cc:** Bormann, Cheryl T CIV OSD OMC Defense; Hatcher, James LCDR OSD OMC Defense; Hennessy, William T MAJ OSD OMC Defense; Obrien, Terry A LtCol OSD OMC; [REDACTED] TSgt OSD OMC Defense; [REDACTED] SSG OSD OMC Defense; [REDACTED] CTR OSD OMC  
**Subject:** RE: [REDACTED]

Let me know the location and I will review and correct.

v/r  
[REDACTED]

-----Original Message-----

**From:** Schwartz, Michael A Capt OSD OMC Defense  
**Sent:** Thursday, October 25, 2012 3:13 PM  
**To:** [REDACTED] Jr CIV OSD OMC Defense; [REDACTED] F CTR WHS-EITSD  
**Cc:** Bormann, Cheryl T CIV OSD OMC Defense; Hatcher, James LCDR OSD OMC Defense; Hennessy, William T MAJ OSD OMC Defense; Obrien, Terry A LtCol OSD OMC; [REDACTED] TSgt OSD OMC

Defense; [REDACTED] SSG OSD OMC Defense; [REDACTED] CTR OSD OMC  
Subject: [REDACTED]

[REDACTED]

The mysterious [REDACTED] still has access to all of our privileged files. What can we do to fix this?

Mike

MICHAEL A. SCHWARTZ, Capt, USAF  
Defense Counsel  
Office of the Chief Defense Counsel

[REDACTED]

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**From:** [REDACTED]  
**To:** [REDACTED]  
**Subject:** FW: [REDACTED]  
**Date:** Monday, April 08, 2013 8:10:26 PM

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-----Original Message-----

**From:** Schwartz, Michael A Capt OSD OMC Defense  
**Sent:** Thursday, November 15, 2012 8:27 AM  
**To:** [REDACTED] CIV OSD OMC Defense; [REDACTED] CTR WHS-EITSD  
**Cc:** Bormann, Cheryl T CIV OSD OMC Defense; Hatcher, James LCDR OSD OMC Defense; Hennessy, William T MAJ OSD OMC Defense; Obrien, Terry A LtCol OSD OMC; [REDACTED] TSgt OSD OMC Defense; [REDACTED] SSG OSD OMC Defense; [REDACTED] CTR OSD OMC  
**Subject:** RE: [REDACTED]

[REDACTED]

[REDACTED] still appears to have access to the entire bin 'Attash O: folder.

Mike

MICHAEL A. SCHWARTZ, Capt, USAF  
Defense Counsel  
Office of the Chief Defense Counsel

[REDACTED]

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-----Original Message-----

**From:** Schwartz, Michael A Capt OSD OMC Defense  
**Sent:** Thursday, October 25, 2012 3:13 PM  
**To:** [REDACTED] CIV OSD OMC Defense; [REDACTED] CTR WHS-EITSD  
**Cc:** Bormann, Cheryl T CIV OSD OMC Defense; Hatcher, James LCDR OSD OMC Defense; Hennessy, William T MAJ OSD OMC Defense; Obrien, Terry A LtCol OSD OMC; [REDACTED] TSgt OSD OMC Defense; [REDACTED] SSG OSD OMC Defense; [REDACTED] CTR OSD OMC  
**Subject:** [REDACTED]

[REDACTED]

The mysterious [REDACTED] still has access to all of our privileged files. What can we do to fix this?

Mike

MICHAEL A. SCHWARTZ, Capt, USAF  
Defense Counsel  
Office of the Chief Defense Counsel



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[REDACTED]

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-----Original Message-----

From: Mayberry, Karen E COL OSD OMC Defense  
Sent: Wednesday, April 10, 2013 7:54 PM  
To: MLA DD - OMC Defense  
Cc: Mr. David Nevin; Mr. Rick Kammen; Mr. Jim Harrington  
Subject: Directive regarding OCDC personnel use of the WHS Enterprise Network for Confidential or Privileged Material  
Importance: High

ALCON:

As you all know, there have been unauthorized disclosures of OCDC privileged information and recurring events that have caused materials stored on the O & H drives to be modified, corrupted, or in some cases lost all together. As a result of these events, I have determined that the integrity of these systems is not sufficient to ensure that we safeguard confidential and privileged materials, as it is our ethical duty to do.

Effective immediately and until further notice, I direct that all OCDC personnel, (including contractors and outside consultants associated with OCDC representational matters), not transmit anything that is confidential or privileged over the Enterprise email. Furthermore, OCDC personnel will not save files that contain confidential or privileged materials on the O or H drives. All of the active litigation teams have been provided external hard drives. Those drives should be used for the foreseeable future to allow you to create and store documents -- especially those necessary to meet court imposed filing deadlines.

We are looking into alternatives for the remaining personnel. This is an interim measure until such time as we can develop a long term and permanent course of action; with the understanding that there may be multiple iterations in the days and weeks ahead.

I will provide more detailed guidance within the next 7-10 days. Do not forward this email outside of OCDC channels. I will notify the Convening Authority and Mr Koffksy. If you have any questions, please direct them to either myself or Mr. Broyles.

Karen E. Mayberry, Col, USAF  
Chief Defense Counsel  
Military Commissions  
1620 Defense Pentagon [REDACTED]  
Washington, D.C. 20301-1620  
[REDACTED]

**MILITARY COMMISSIONS TRIAL JUDICIARY  
GUANTANAMO BAY, CUBA**

**UNITED STATES OF AMERICA**

v.

**KHALID SHAIKH MOHAMMAD,  
WALID MUHAMMAD SALIH  
MUBARAK BIN ATTASH, RAMZI  
BINALSHIBH, ALI ABDUL AZIZ ALI,  
MUSTAFA AHMED ADAM AL  
HAWSAWI**

**AE 154**

**Government Notice**  
Of Events Related to Protection of  
Privileged Materials

8 April 2013

**Notice**

The Government hereby notifies this Commission of recent matters that have arisen in a case pending before the U.S. Court of Military Commission Review (“U.S.C.M.C.R.”) as set forth in more detail in Attachment A, which is a recent filing by OCP before U.S.C.M.C.R.

Recently, in the context of a petition for extraordinary relief filed in U.S.C.M.C.R. on behalf of Mr. Ibrahim Ahmed Mahmoud al Qosi, that Court ordered the government to produce “copies of any communications, or records thereof, between the Government, and the Petitioner or any member of the Petitioner’s trial defense team or Appellate Defense Counsel regarding waiver or withdrawal of appellate review, not otherwise included in the authenticated Record of Trial, and occurring during the period August 10, 2010 through February 12, 2013.” *Ibrahim Ahmed Mahmoud al Qosi v. United States*, No. 13-001, Order (U.S.C.M.C.R. Feb. 12, 2013).

To comply with the Court order, counsel in the Office of the Chief Prosecutor (“OCP”) asked the Enterprise Information Technology Services Directorate (“EITSD”) of the Washington Headquarters Service (“WHS”), via the Security Manager then located in the Office of the Convening Authority (“OMC-CA”)<sup>1</sup>, to perform a search of archived electronic communications of three OCP prosecutors for communications responsive to the court order. Unfortunately, OMC-CA Security personnel miscommunicated the search parameters to EITSD, and as a result of that human error, EITSD’s search was not limited to only the email mailboxes of the three named prosecutors; it included certain defense email mailboxes as well.

On March 21 and March 22, 2013, EITSD provided OCP counsel with a number of Microsoft Outlook Personal Storage Table (“PST”) files containing the results of their search pursuant to the Court’s order. Late on this afternoon of Friday, March 22, one OCP counsel opened the first PST folder, and then opened the first four or five emails contained therein. All

<sup>1</sup> In the midst of these events, the security function, and the people performing that function, were moved from under the supervision of OMC-CA to the supervision of WHS.

but the last of those emails were between a member of Mr. al Qosi's trial defense team and a member of the prosecution team. The final email opened was from a member of the trial defense team and was addressed solely to other members of the al Qosi defense team. The salutation was "team," or some similar word. OCP counsel read no further and immediately closed the email and the folder. He then immediately notified his co-counsel and paralegal that there appeared to be internal defense communications mixed into the search results EITSD had provided, and that his co-counsel and paralegal should not look at any of the material provided by EITSD. Since this instruction, OCP counsel and their paralegal have not reviewed any of the material provided to them by EITSD.

Although it appears that at least one email exchanged among *al Qosi* defense team members was provided to OCP by EITSD as part of the search results, no one at OCP read the content of that email message or saw any internal defense information.

On March 26, OCP counsel notified CAPT Mary McCormick, Mr. al Qosi's trial defense counsel, and the U.S.C.M.C.R. Clerk of Court of the inadvertent disclosure. OCP counsel and CAPT Mary McCormick agreed that these search results should be deleted. EITSD then deleted them. OCP counsel do not have access to these search results.

On Monday morning, March 25, OCP counsel spoke directly with the EITSD Investigative Search Request ("ISR") Supervisor, who explained that EITSD would need to reperform the search to exclude intra-defense communications. Counsel emphasized that the search should examine only email accounts of three named prosecution team members, and must not include any emails solely between or among defense team members. The EITSD ISR Supervisor assured OCP counsel that the new search would not involve any defense counsel mailboxes.

EITSD completed this second search on March 27. Out of an abundance of caution, OCP counsel requested that EITSD not turn over the search results directly to the prosecution. Instead, three DoD attorneys (who have no involvement in the Al-Qosi case and do not work for OCP), were provided access to the results of the search. Although it was anticipated that this search would not turn up internal defense communications, these lawyers were instructed, again out of an abundance of caution, to examine only the "to," "from," and "cc" fields to determine if any of the responsive were internal defense communications.

Only one of the three attorneys ever reviewed any of the headers, because soon after beginning the review, the attorney discovered that there was a header indicating an email solely among defense counsel. That lawyer immediately ceased his review, and the others did not begin their review. There was no compromise of the content of any internal defense communications. These search results were subsequently deleted. The late addition of the name of a previously omitted defense counsel to the list of people communicating with the prosecution had the result of confusing the ISR technician, who then mistakenly searched that email mailbox, along with the other three prosecution mailboxes.

OCP counsel then worked with EITSD ISR technicians to develop a third search that, again, would yield documents responsive to the Court's orders but omit internal communications between and among defense team members alone. EITSD completed this third search on

Thursday, March 28, but these search results have not yet been viewed by anyone, as U.S.C.M.C.R. issued an order on April 1, directing the government to cease further efforts to search for communications responsive to its February 12th order.

Separately, it has come to the attention of the Chief Prosecutor that a folder containing PST files containing emails of a former OCP counsel were available to the Office of the Chief Defense Counsel personnel on the Defense computer “shared drive.” Counsel in the Office of the Chief Defense Counsel notified OCP of their access, and took steps to have that access disabled, without viewing content.

Similarly, on Wednesday, April 3, defense counsel for the accused in another case informed the Chief Prosecutor and others in OCP that he had mistakenly sent them an email containing a filing he intended to submit to the military commission *ex parte*. The Chief Prosecutor immediately directed all OCP personnel not to read the email, and to delete it.

Confidential and privileged defense information has not been viewed by personnel in the Office of the Chief Prosecutor of Military Commissions, and OMC-CA has been actively working to identify and take any necessary remedial action. Given the case-specific and defense-initiated nature of the circumstances giving rise to this notice—as well as the e-mail encryption, confidential face-to-face meeting, and other methods available to counsel in the present commission to assure privileged communications with their clients—we are aware of no circumstances justifying disruption to or delay of scheduled proceedings. Nevertheless, so as to assist the military judge in the exercise of his duties under Rule for Military Commissions 801, the Government notifies the Court of the above matters, and of its filing with U.S.C.M.C.R.

#### Attachments

- A. Certificate of Service, dated 8 April 2013.
- B. Motion for Enlargement of Time to Produce Additional Documents Responsive to Court’s February 26, 2013 Order, *Al Qosi v. United States*, No. 13-001 (U.S.C.M.C.R. Mar. 28, 2013).

Respectfully submitted,

---

Clay Trivett  
Deputy Trial Counsel

Mark Martins  
Chief Prosecutor  
Military Commissions



<b>IBRAHIM AHMED MAHMOUD AL QOSI,</b>	)	IN THE UNITED STATES COURT OF MILITARY COMMISSION REVIEW
	)	
<b>Petitioner,</b>	)	<b>MOTION FOR ENLARGEMENT OF TIME TO PRODUCE ADDITIONAL DOCUMENTS RESPONSIVE TO THE COURT’S FEBRUARY 26, 2013 ORDER</b>
	)	
<b>v.</b>	)	U.S.C.M.C.R. Case No. 13-001
	)	
<b>UNITED STATES,</b>	)	
	)	
<b>Respondent.</b>	)	

**TO THE HONORABLE, THE JUDGES OF THE COURT OF MILITARY  
COMMISSION REVIEW**

Pursuant to U.S.C.M.C.R. Rule 21, Respondent United States respectfully requests this honorable Court to enlarge the time to supplement its production of documents responsive to the Court’s February 26, 2013 Order until Monday, April 29, 2013. Respondent will, of course, provide this honorable Court the additional responsive documents as soon as they are available.

**BACKGROUND**

On February 12, 2013, U.S.C.M.C.R. ordered Respondent to produce within seven days “any communications, or records thereof, between the Government, and the Petitioner or any member of the Petitioner’s trial defense team or Appellate Defense Counsel regarding waiver or withdrawal of appellate review, not otherwise included in the authenticated Record of Trial . . . .” Order ¶ 3, Feb. 12, 2013. It also ordered Respondent to produce “any document or other record in the possession of the Government indicating excusal, change or withdrawal of Defense Counsel during the period August 10, 2010 through February 12, 2013.” Order ¶ 4, Feb. 12, 2013. Although the Court did not specify a deadline for producing the documents identified in Paragraph 4 of the Order, Respondent assumed the Court intended Respondent to produce these documents also within seven days.

On February 19, 2013, Respondent produced documents responsive to Paragraph 3 of the Order and requested that the Court enlarge the time to produce additional documents responsive

to that Order. On February 25, 2013, Petitioner opposed the enlargement request. The next day, the Court granted an enlargement of time until March 21, 2013. The Court also modified Paragraph 3 of its Order, instructing Respondent to produce

copies of any communications, or records thereof, between the Government, and the Petitioner or any member of the Petitioner's trial defense team or Appellate Defense Counsel regarding waiver or withdrawal of appellate review, not otherwise included in the authenticated Record of Trial, ***and occurring during the period August 10, 2010 through February 12, 2013.***

Order ¶ 1, Feb. 26, 2013 (emphasis in original).

On March 21, 2013, Respondent moved for an enlargement of time to produce additional documents responsive to the Court's February 26, 2013 Order. Petitioner opposed the enlargement request. On March 26, 2013, the Court granted the Motion. For the reasons explained below, Respondent must again ask the Court to enlarge the time to supplement the production of documents responsive to the Court's February 26, 2013 Order. An enlargement of time is necessary because searching for responsive communications—while properly protecting Petitioner's and Respondent's attorney-client privileged communications—has proven complex. Despite counsel for Respondent's diligent and sincere efforts to comply with the Court's orders, the Government requires more time in order to continue to diligently produce responsive communications.

On March 28, 2013, counsel for Respondent asked Captain McCormick if she would consent to an enlargement. As of the filing of this motion, Respondent had not received Captain McCormick's response.

### FACTS

On February 15, 2013, counsel for Respondent contacted Mr. [REDACTED] Information Technology Manager in the Office of Military Commissions - Convening Authority, informing him that the Court had ordered Respondent to produce, *inter alia* “any communications, or records thereof, between the Government, and [Ibrahim Ahmed Mahmoud Al Qosi] or any member of [his] trial defense team or Appellate Defense Counsel regarding waiver or withdrawal

of appellate review . . . .” Email from Edward White, CAPT, JAGC, USN, Appellate Counsel for Respondent, to [REDACTED] Information Technology Manager, OMC-CA (Feb. 15, 2013, 13:54 EST) (Attachment A at 4 ). Counsel for Respondent asked Mr. [REDACTED] to facilitate the technical steps necessary to obtain responsive communications and to provide a timeline for obtaining them. Mr. [REDACTED] replied that “OMC Security” must request the communications from OSD Records Management, because the search would require access to the archived mailboxes of individuals who no longer work at the Office of the Chief Prosecutor. Email from [REDACTED] to Edward White (Feb. 15, 2013, 15:46 EST) (Attachment A at 3-4). Mr. [REDACTED] copied OMC Convening Authority Security staff on his reply. (OMC Security was initially a component of OMC, but was later transferred to the Washington Headquarters Service (“WHS”).

That same day, Ms. Teresa Woodard, Security Specialist at OMC, replied to counsel for Respondent, requesting a copy of the Court Order. Ms. Woodard stated that the Court Order “must be processed as a FOIA [sic]” by “a special team at the [Office of the Secretary of Defense, Chief Information Office].” She estimated, “They can possibly [sic] get it to you by next week.” Email from Teresa Woodard, Security Specialist at OMC, to Edward White (Feb. 15, 2013, 15:57 EST) (Attachment A at 3). Four minutes later, counsel for Respondent sent Ms. Woodard the Court order and instructed her not to process the Court order as a Freedom of Information Act Request. Email from Edward White to Teresa Woodard (Feb. 15, 2013, 16:01 EST) (Attachment A at 2). Counsel also requested “a solid projected completion date and an idea of what’s involved” in case counsel needed to request additional time from the Court. *Id.*

Despite counsel’s repeated attempts to contact Ms. Woodard by phone and email, Ms. Woodard did not respond to counsel’s email until four days later, February 19, 2013—the deadline for producing responsive communications. Ms. Woodard recommended that counsel “request 45 working business days extension (excluding holidays and weekends).” Email from Teresa Woodard to Edward White (Feb. 19, 2013, 16:05 EST) (Attachment A at 1). Relying on Ms. Woodard’s assessment of the additional time that would be required to complete the search and review, on February 19, 2013, counsel requested an extension of 45 business days to

complete the search for responsive communications and produce those communications to the Court.

In her February 19, 2013, e-mail recommending a 45-day extension, Ms. Woodard also indicated that she contacted the defense “to gather the email and files.” *Id.* The following day, it was brought to counsel’s attention that Ms. Woodard indeed had contacted a member of the Office of the Chief Defense Counsel requesting communications identified in the Court Order. Email from Edward White to Teresa Woodard (Feb. 20, 2013, 14:36 EST) (Attachment B at 1-2). Counsel immediately emailed Ms. Woodard:

“There is no need to search defense email accounts—and we don’t want you to do that. To comply with the Court’s order, it should be sufficient to search the archived emails of [certain prosecution counsel]. Those are the people within [the Office of the Chief Prosecutor] that would potentially have responsive materials in their archived emails, and there shouldn’t be anything responsive in defense emails that wouldn’t also be in one of those email accounts.

So, please have the [Chief Information Office] people limit their search to those three individuals named in the above paragraph.”

*Id.*

For reasons unknown to counsel for Respondent, the people executing the search within the Enterprise Information Technology Services Directorate (“EITSD”) of WHS were not made aware of counsel’s instructions. [REDACTED] Decl., Mar. 28, 2013 (Attachment C). An Investigative Search Request (“ISR”) to EITSD completed by Ms. Woodard and dated February 21, 2013—the day after counsel’s limiting instruction—did not limit the search to the three named prosecutors. EITSD Requirements Document (Feb. 21, 2013, and updated Feb. 27, 2013) (Attachment D). In fact, it completely omitted one of the named prosecutors from the search entirely. *Id.* Ms. Woodard named herself, two prosecution paralegals, and two defense paralegals as the persons who could review the search results from the search technicians to ensure that the search results did not include any attorney-client privileged communications. See Email from [REDACTED] to Danielle Tarin (Mar. 25, 2013, 8:06 EST) (Attachment E). EITSD Requirements Document (Feb. 21, 2013, and updated Feb. 27, 2013) (Attachment D). Counsel for Respondent was unaware of this mis-scoped ISR until March 25, as Ms. Woodard

did not consult with counsel regarding the ISR and, in fact, insisted that counsel route all search instructions through her instead of directly contacting the technicians conducting the search.

The week of March 11, 2013, Ms. Woodard indicated to counsel that the search would likely be completed before the Court's then-established deadline of March 21. Counsel attempted to contact Ms. Woodard on both March 18 and March 19 for a status update, but Ms. Woodard did not respond. Instead, Ms. Woodard contacted a paralegal in the Office of the Chief Prosecutor on March 19 and informed the paralegal that the search results would not be available until at least March 21. On March 20, counsel traveled to Ms. Woodard's office—more than a half hour drive away—in an attempt to speak with her, but Ms. Woodard was not there. Email from Edward White to Teresa Woodard (Mar. 20, 2013, 13:18 EST) (Attachment F at 2). Counsel emailed Ms. Woodard, asking her to direct counsel to someone who could help explain to the Court why Respondent would need another extension. *Id.* Several hours later, Ms. Woodard informed counsel that [REDACTED] as “leading search.” Email from Teresa Woodard to Edward White (Mar. 20, 2013, 17:12 EST) (Attachment F at 1).

That evening, counsel determined that [REDACTED] was [REDACTED] an ISR Specialist at EITSD within WHS. Counsel contacted him that night for a conference call the next morning. The next morning, Mr. [REDACTED] informed counsel that EITSD's limited resources prevented EITSD from completing the search before March 21. *See* [REDACTED] Decl. ¶¶ 2-4, Mar. 21, 2013 (Attachment G). Later that day, he informed counsel that, barring any unforeseen events, the search would not be complete until March 22. He assured counsel that EITSD had made “every effort possible to provide counsel for Respondent with the ISR results as soon as it can.” [REDACTED] Decl. ¶ 4, Mar. 21, 2013.

On March 21 and March 22, EITSD provided Office of the Chief Prosecutor (“OCP”) counsel with a number of Microsoft Outlook PST files containing the results of their search pursuant to the Court's order. Late the afternoon of Friday, March 22, one counsel for Respondent opened the first PST folder, and then opened the first four or five emails contained therein. All but the last of those emails were between a member of Mr. al Qosi's trial defense

team and a member of the prosecution team. The final email he opened was from a member of the trial defense team and was addressed solely to other members of the al Qosid defense team. The salutation was "team," or some similar word. Counsel read no further and immediately closed the email and the folder. He then immediately notified his co-counsel and paralegal that there appeared to be privileged communications mixed into the search results counsel had been provided, and that his co-counsel and paralegal should not look at any of the material provided by EITSD. Since this instruction, counsel for Respondent and their paralegal have not reviewed any of the material provided to them by EITSD. Although it appears that at least one email exchanged among defense team members was provided to counsel for Respondent by EITSD as part of the search results, no one OCP has read the content of that email message or seen any privileged defense information. (On March 26, counsel for Respondent notified CAPT Mary McCormick and Mr. al Qosi's trial defense counsel of the inadvertent disclosure.)

Despite counsel's clear prior instructions to Ms. Woodard that no defense email accounts should be searched, and that the search should be limited to the mailboxes of the three named prosecutors, EITSD had search each of six email boxes, two prosecution mailboxes and four defense counsel mailboxes, for any communications from that person to any of the others. *See* [REDACTED] ¶¶ 2-4, Mar. 21, 2013 (Attachment G).

On Friday, March 22, counsel for Respondent attempted to contact Mr. [REDACTED] but he had already left for the weekend. The following Monday morning, March 25, counsel spoke directly with Mr. [REDACTED] who explained that Ms. Woodard had not limited the search in accordance with counsel's instructions and that the search would need to be entirely redone. [REDACTED] Decl., Mar. 28, 2013 (Attachment C). Counsel emphasized to Mr. [REDACTED] that the search should examine only email accounts of three named prosecution team members, and must not include any emails solely between or among defense team members.

On March 25, by email, counsel asked Mr. [REDACTED] to confirm that EITSD was searching for responsive communications only in the prosecution team members' email accounts. Email

from Danielle Tarin to [REDACTED] (Mar. 25, 2013, 18:26 EST) (Attachment H at 1-2). Mr. [REDACTED] replied that counsel need not

worry about seeing any emails with privileged or work product information in the results.

Remember the computer only does what you tell it, it is objective in its search. The search will be any emails FROM or TO the prosecution attorneys TO the defense or FROM the defense attorneys. Again no responsive records will [sic] between the defense attorneys themselves will end up in the results. Once the technician inputs the search parameters in to search engine it will only provide responsive results based upon those requirements.

The search does not have to be executed within the mailboxes of the defense attorneys to provide the responsive results you are seeking.

Email from [REDACTED] to Danielle Tarin (Mar. 26, 2013, 6:31 EST) (Attachment H at 1).

EITSD completed this new search on March 27. Out of an abundance of caution, counsel directed Mr. [REDACTED] to deposit all search results with government attorneys outside the Office of the Chief Prosecutor (the "Privilege Review Team") so that those attorneys could review the search results to ensure they included no privileged communications and, in particular, no communications solely among Mr. al Qosi's defense counsel. [REDACTED] Decl., Mar. 28, 2013 (Attachment C). Soon after beginning the review, a privilege-review attorney discovered an email solely among defense counsel. [REDACTED] Decl., Mar. 28, 2013 (Attachment C). The privilege-review attorneys immediately ceased their review.

Counsel for Respondent then worked with the EITSD search technicians to develop a new search that, again, would yield documents responsive to the Court's orders but omit privileged communications between and among defense team members alone. [REDACTED] Decl., Mar. 28, 2013 (Attachment C). EITSD began the new search that night but still encountered "unforeseen technical issues." Email from [REDACTED] EITSD, to Michael O'Sullivan, Col, USAF, Deputy Chief Prosecutor, Office of the Chief Prosecutor (Mar. 27, 2013, 19:09 EST) (Attachment I).

No one in EITSD is assigned full-time to work on ISRs. Rather, a handful of technicians conduct these investigative searches in addition to their other assigned duties, which include

maintaining the operation and security of the OSD information networks, among numerous other IT functions. Only a handful of technicians within EITSD have the knowledge and expertise to operate the search software used to conduct the search in this case. The single most experienced and knowledgeable technician has been out of the country on leave since after completion of the first, mis-scoped search and therefore has been unavailable to assist in constructing and running the subsequent searches. Only technicians less skilled in the use of the software search tool are available. One EITSD technician remained at work for four hours beyond his normal duty hours on March 27 to work on this search, and needed to spend a considerable amount of time speaking with technical experts at the software vendor to obtain assistance in crafting and executing the search.

EITSD completed this third search on Thursday, March 28, but the search has inexplicably generated over 540,000 emails, which EITSD as of the time of writing has not yet provided to the Privilege Review Team that is standing by to screen the search results. Upon information and belief, even though the number of responsive documents, if any, will likely be quite small, it will take a significant amount of time for the Privilege Review Team to review the 540,000 emails for privilege, for counsel for the Government to then narrow the 540,000 emails using additional search terms to appropriately narrow the results, and then conduct a page-by-page review, in order to ensure that the Government fully complies with the Court's Order.

### ARGUMENT

Respondent has taken reasonable steps since the Court's original production order to identify and produce the communications responsive to the Court's order. Initially, garbled communication between counsel for Respondent and the technicians actually executing the electronic search produced flawed results. Once that problem was identified and resolved, counsel for Respondent engaged in direct communication with the personnel at EITSD working on this search request in an effort to better focus the search for responsive documents. Throughout these second and third iterations, however, Respondent has been disadvantaged by

the absence of the single most experienced and knowledgeable technician, as well as by the competing mission-critical demands on the time of the part-time ISR technicians who are available. Further, as attested to by the declaration of Mr. [REDACTED] and by the difficulties recounted above, crafting a search that simultaneously protects privileged defense communications, captures all responsive communications, and yet does not produce overbroad and burdensome results is a challenging and time-consuming task.

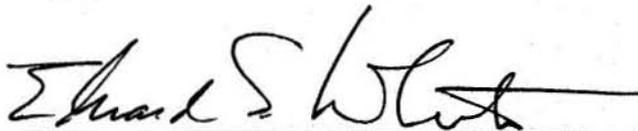
As explained above, the most recent search—which was limited to the mailboxes of three prosecutors, and looked only for emails between that prosecutor and at least one of the al Qosia trial defense counsel, using an appropriate set of narrowing search terms, still produced over 540,000 email hits, which seems impossibly large. Given the prior history, counsel for Respondent has thought it prudent to have the search results screened for privileged material before examining the search results themselves.

Once the privilege review is completed, counsel for Respondent will need a substantial period of time to identify why the EITSD search has returned such a large number of emails, and develop a strategy to narrow those results with additional reasonable search terms, and then conduct a page-by-page review of the winnowed emails for responsive documents.

Counsel for Respondent has worked diligently to produce responsive communications. Nonetheless, for all the reasons detailed above, retrieving those communications while properly protecting privileged information has proved more challenging than anticipated. Given the difficulties encountered so far, and to ensure that counsel continue to properly protect privileged communications while complying with the Court's Orders, Respondent respectfully requests that the Court enlarge the time to produce additional documents responsive to the Court's February 26, 2013 Order until Monday, April 29, 2013.

Respectfully submitted,

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



EDWARD S. WHITE  
Captain, JAGC, U.S. Navy  
Appellate Counsel

DANIELLE S. TARIN  
Appellate Counsel

Counsel for Respondent

Office of the Chief Prosecutor  
Office of Military Commissions  
1610 Defense Pentagon  
Washington, D.C. 20301-1610



**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing was sent by electronic mail to CAPT Mary McCormick, detailed appellate defense counsel, on March 28, 2013.



EDWARD S. WHITE  
Captain, JAGC, U.S. Navy  
Appellate Counsel for Respondent

Office of Military Commissions  
1610 Defense Pentagon  
Washington, D.C. 20301-1610



# Attachment A



-----Original Message-----

From: White, Edward S CAPT OSD OMC Prosecution  
Sent: Tuesday, February 19, 2013 1:35 PM  
To: Woodard, Teresa Ms OSD OMC Convening Authority  
Cc: Tarin, Danielle S CIV OSD OMC Prosecution; [REDACTED] CTR WHS-EITSD; [REDACTED] CTR WHS-EITSD; [REDACTED] CTR WHS-EITSD; [REDACTED] II CTR OSD OMC Convening Authority; [REDACTED] Mr OSD OMC Convening Authority; [REDACTED] CIV OSD OMC Convening Authority; [REDACTED] Mr OSD OMC Convening Authority; MLA dd - OMC Convening Authority Security; Breslin, Michael Mr OSD OMC Convening Authority  
Subject: RE: URGENT - Court Order ICO al Qosi v. United States  
Importance: High

Teresa,

We're getting close to the point at which we need to file something with CMCR in the Qosi matter. What's the latest news (especially with respect to Q. 3 below)?

Thanks. v/r, ESW

-----Original Message-----

From: White, Edward S CAPT OSD OMC Prosecution  
Sent: Friday, February 15, 2013 4:01 PM  
To: Woodard, Teresa Ms OSD OMC Convening Authority  
Cc: Tarin, Danielle S CIV OSD OMC Prosecution; [REDACTED] CTR WHS-EITSD; [REDACTED] CTR WHS-EITSD; [REDACTED] CTR WHS-EITSD; [REDACTED] II CTR OSD OMC Convening Authority; [REDACTED] Mr OSD OMC Convening Authority; [REDACTED] CIV OSD OMC Convening Authority; [REDACTED] Mr OSD OMC Convening Authority; MLA dd - OMC Convening Authority Security  
Subject: RE: URGENT - Court Order ICO al Qosi v. United States

Teresa,

1. Thanks for the quick response.
2. Attached is a copy of the Order from CMCR.
3. It should NOT be processed as a FOIA request -- it is not a FOIA request, but a court order. If that's a sticking point, let me know and we can discuss.
4. Understand you might not be able to get us a substantive answer by COB Tuesday, but if we could at least get a solid projected completion date and an idea of what's involved, we can seek extra time from the Court.

v/r, ESW

-----Original Message-----

From: Woodard, Teresa Ms OSD OMC Convening Authority

Sent: Friday, February 15, 2013 3:57 PM

To: White, Edward S CAPT OSD OMC Prosecution

Cc: Tarin, Danielle S CIV OSD OMC Prosecution; [REDACTED] CTR WHS-EITSD; [REDACTED] CTR WHS-EITSD; [REDACTED] CTR WHS-EITSD; [REDACTED] I CTR OSD OMC Convening

Authority; [REDACTED] Mr OSD OMC Convening Authority; [REDACTED] CIV OSD OMC Convening

Authority; [REDACTED] Mr OSD OMC Convening Authority; MLA dd - OMC Convening Authority Security

Subject: RE: URGENT - Court Order ICO al Qosi v. United States

Importance: High

~~UNCLASS//FOUO~~

Good Afternoon CAPT White,

Before this request is processed I must have a copy of the court order and it must be processed as a FOIA. I can asked for an expedite, but I cannot guarantee it will be completed by Tuesday, 19 January 2013 because this is done by a special team at the OSD CIO. They can possible get it to you next week.

I will contact the records managers for OMC-Defense and Prosecution in regards to the emails to see if they can assist quicker. I can't do anything without the court order, I must have it as soon as possible.

Sincerely,

Teresa Woodard  
Security Specialist  
OSD/OMC



Privacy Act of 1974 as Amended applies - this email may contain information that is protected IAW DoD5400.11R and is For Official Use Only (FOUO).

Caution: Information contained in this message may be protected by the attorney/client privilege, attorney work.

-----Original Message-----

From: [REDACTED] Mr OSD OMC Convening Authority

Sent: Friday, February 15, 2013 3:46 PM

To: White, Edward S CAPT OSD OMC Prosecution; MLA dd - OMC Convening Authority Security

Cc: Tarin, Danielle S CIV OSD OMC Prosecution; [REDACTED] CTR WHS-EITSD; [REDACTED] CTR WHS-EITSD; [REDACTED] CTR WHS-EITSD; [REDACTED] II CTR OSD OMC Convening

Authority; [REDACTED] Mr OSD OMC Convening Authority; [REDACTED] CIV OSD OMC Convening Authority

Subject: RE: URGENT - Court Order ICO al Qosi v. United States

Importance: High

CAPT White,

This request will have to be processed by OMC Security. OMC Security will have to request the emails from OSD Records Management. The details of the process and timeline can be provided by OMC Security.

Thanks,

-----Original Message-----

From: White, Edward S CAPT OSD OMC Prosecution

Sent: Friday, February 15, 2013 1:54 PM

To: [REDACTED] Mr OSD OMC Convening Authority

Cc: Tarin, Danielle S CIV OSD OMC Prosecution; [REDACTED] CTR WHS-EITSD; [REDACTED] CTR WHS-EITSD; [REDACTED] CTR WHS-EITSD; [REDACTED] II CTR OSD OMC Convening Authority

Subject: URGENT - Court Order ICO al Qosi v. United States

Importance: High

Mr. [REDACTED]

The Office of the Chief Prosecutor received an Order from the U.S. Court of Military Commission Review requiring us to produce-by COB Tuesday, 19 February-"any communications, or records thereof, between the Government, and [Ibrahim Ahmed Mahmoud Al Qosi] or any member of [his] trial defense team or Appellate Defense Counsel regarding waiver or withdrawal of appellate review . . . ."

To respond to this Order, I need email communications from July 2009 through August 2010 between any one of these prosecutors-CDR Dirk Padgett (OMC-P), Seamus Quinn (departed OMC-P), and Ralph Paradiso (departed OMC-P)-and any one of these defense counsel-MAJ Todd Pierce, CDR Susan Lachelier, Larry Martin (lhm@foleyhoag.com), LCDR Travis Owens, and Paul Reichler (preichle@foleyhoag.com).

Would you please facilitate technical steps necessary to obtain these email communications and provide a timeline for obtaining them? Although the Court has ordered us to produce the communications by COB Tuesday (19 February), I realize obtaining these communications by that date might not be possible. If it is not, by what date do you believe we can obtain them?

Thank you.

Ed White

EDWARD S. WHITE

CAPT, JAGC, USN

Deputy Chief Prosecutor (Motions & Appeals)

Office of the Chief Prosecutor of Military Commissions

1610 Defense Pentagon

Washington, D.C. 20301-1610



# Attachment B

**Tarin, Danielle S CIV OSD OMC Prosecution**

---

**From:** Woodard, Teresa Ms OSD OMC Convening Authority  
**Sent:** Wednesday, February 20, 2013 3:54 PM  
**To:** White, Edward S CAPT OSD OMC Prosecution  
**Cc:** Breslin, Michael Mr OSD OMC Convening Authority; Tarin, Danielle S CIV OSD OMC Prosecution  
**Subject:** RE: Request for Emails ~~(U)~~  
**Signed By:** [REDACTED]

~~FOUO~~

Good Afternoon Sir,

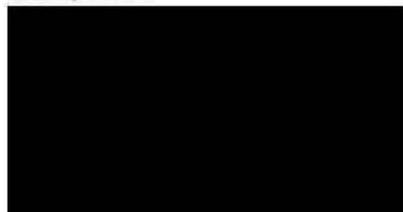
The limit to the CIO was to send the emails that PO [REDACTED] needs. The Defense already have the emails except for Lachelier so I was inquiring to them to provide the emails to make the process quicker and easier for you.

I will check with PO [REDACTED] to see if she has received confirmation from the CIO when will they send her the emails that she needs to provide to you from OMC-P staff on the email that was sent to me.

If you need further assistance just let me know.

Sincerely,

Teresa Woodard  
Security Specialist  
OSD/OMC



Privacy Act of 1974 as Amended applies - this email may contain information that is protected IAW DoD5400.11R and is For Official Use Only (FOUO).  
Caution: Information contained in this message may be protected by the attorney/client privilege, attorney work.

-----Original Message-----

**From:** White, Edward S CAPT OSD OMC Prosecution  
**Sent:** Wednesday, February 20, 2013 2:36 PM  
**To:** Woodard, Teresa Ms OSD OMC Convening Authority  
**Cc:** Breslin, Michael Mr OSD OMC Convening Authority; Tarin, Danielle S CIV OSD OMC Prosecution  
**Subject:** RE: Request for Emails ~~(U)~~

Teresa,

Mike Breslin brought to my attention earlier today that Bryan Broyles of OCDC had declined to assist in your effort to search OCDC emails, which you had sought to do in response to our request to search archived email accounts in response to the CMCR order in the al Qosi matter.

There is no need to search defense email accounts -- and we don't want you to do that. To comply with the Court's order, it should be sufficient to search the archived emails of Capt Seamus Quinn, USMC, LtCol Ralph Paradiso, USAF, and CDR Dirk Padgett, JAGC, USN. Those are the people within OCP that would potentially have responsive materials in their archived emails, and there shouldn't be anything responsive in defense emails that wouldn't also be in one of those email accounts.

So, please have the CIO people limit their search to those three individuals named in the above paragraph. If you have any questions or concerns going forward, please feel free to call or email Danielle Tarin in my office, as she has the lead on this matter for us.

Thanks.

v/r, Ed White

EDWARD S. WHITE  
CAPT, JAGC, USN  
Deputy Chief Prosecutor (Motions & Appeals)  
Office of the Chief Prosecutor of Military Commissions  
1610 Defense Pentagon  
Washington, D.C. 20301-1610

-----Original Message-----

From: Breslin, Michael Mr OSD OMC Convening Authority  
Sent: Wednesday, February 20, 2013 1:40 PM  
To: Tarin, Danielle S CIV OSD OMC Prosecution; White, Edward S CAPT OSD OMC Prosecution  
Subject: RE: Request for Emails (S)

Should I pass that along to Ms Woodard?

mb

-----Original Message-----

From: Tarin, Danielle S CIV OSD OMC Prosecution  
Sent: Wednesday, February 20, 2013 11:07 AM  
To: White, Edward S CAPT OSD OMC Prosecution

Cc: Breslin, Michael Mr OSD OMC Convening Authority  
Subject: RE: Request for Emails ~~(U)~~

No, I do not think we need to search the archived communications of anyone other than Padgett, Quinn, and Paradiso.

Best,  
Danielle

-----Original Message-----

From: White, Edward S CAPT OSD OMC Prosecution  
Sent: Wednesday, February 20, 2013 10:58 AM  
To: Breslin, Michael Mr OSD OMC Convening Authority  
Cc: Tarin, Danielle S CIV OSD OMC Prosecution  
Subject: RE: Request for Emails ~~(U)~~

Mike,

I think Bryan is correct that we don't need to be searching within the Defense emails. The order is to the government, and concerns documents/communications concerning waiver or appellate review and withdrawal/excusal of counsel from the case between the government and the defense. We should find any responsive documents by searching our side of the comms.

Danielle - weigh in here, but I'm thinking it is probably sufficient to search the archived comms of Padgett, Quinn and Paradiso. Danielle - do you think we need to search the communications of anyone else?

v/r, ESW

-----Original Message-----

From: Breslin, Michael Mr OSD OMC Convening Authority  
Sent: Wednesday, February 20, 2013 10:31 AM  
To: White, Edward S CAPT OSD OMC Prosecution  
Subject: FW: Request for Emails ~~(U)~~

Ed-

Ms Woodard is attempting to get the e-mail you requested. Apparently, some of the accounts for defense counsel now departed are still with the defense records managers at OCDC. Ms Woodard asked them if they would search. Mr Broyles replied (below) that the court's order is directed to the government, not the defense.

Not sure if OSD CIO can search the defense e-mail, or whether you want them to--

How would you like to proceed?

Michael J. Breslin  
Deputy Legal Advisor

Office of Military Commissions

[REDACTED]

CAUTION: Information contained in this message may be protected by the attorney-client privilege, attorney work-product privilege, deliberative process or other privileges. Do not distribute further without approval from the Office of the Convening Authority for Military Commissions.

-----Original Message-----

From: Woodard, Teresa Ms OSD OMC Convening Authority  
Sent: Wednesday, February 20, 2013 10:22 AM  
To: Breslin, Michael Mr OSD OMC Convening Authority  
Subject: FW: Request for Emails (U)

~~UNCLASS//FOUO~~

Mr. Breslin,  
Ms. Jemison and Ms. [REDACTED] are the records manager for Defense so I spoke to her about it and she asked me to inform Mr. Broyles so he knows what she and Ms. [REDACTED] needs to do.

It is much easier for the records manager to go through the emails since the order is very specific of what they want. Each division with OMC has a records manager and they received the emails and PST files of the attorneys when they leave.

Sincerely,

Teresa Woodard  
Security Specialist  
OSD/OMC

[REDACTED]

Privacy Act of 1974 as Amended applies - this email may contain information that is protected IAW DoD5400.11R and is For Official Use Only (FOUO).  
Caution: Information contained in this message may be protected by the attorney/client privilege, attorney work.

-----Original Message-----

From: Broyles, Bryan Mr OSD OMC Defense  
Sent: Wednesday, February 20, 2013 8:32 AM  
To: Woodard, Teresa Ms OSD OMC Convening Authority  
Cc: Jemison, Clemencia Ms OSD OMC Defense; [REDACTED] Ms OSD OMC Defense; [REDACTED] CIV  
OSD OMC Defense; [REDACTED] Ms OSD OMC Defense; [REDACTED] CTR OSD OMC; Mayberry, Karen  
E COL OSD OMC Defense; [REDACTED] CIV OSD OMC Convening Authority  
Subject: RE: Request for Emails (U)

Ms. Woodard:

This order is a direction to the Government, that is, the prosecution in this context, to produce those emails. It is not an order to us, the defense.

To quote, "That the Government shall produce copies of any communications, or records thereof, between the Government, and the Petitioner or any member of the Petitioner's trial defense team or Appellate Defense Counsel..."

As the emails that are responsive are, by definition, received by "the Government," that order is directed to them, not to us.

Mr. Broyles

-----Original Message-----

From: Woodard, Teresa Ms OSD OMC Convening Authority  
Sent: Tuesday, February 19, 2013 4:37 PM  
To: Broyles, Bryan Mr OSD OMC Defense  
Cc: Jemison, Clemencia Ms OSD OMC Defense; [REDACTED] Ms OSD OMC Defense; [REDACTED] CIV  
OSD OMC Defense; [REDACTED] Ms OSD OMC Defense; [REDACTED] CTR OSD OMC; Mayberry, Karen  
E COL OSD OMC Defense; [REDACTED] CIV OSD OMC Convening Authority  
Subject: Request for Emails (U)  
Importance: High

~~UNCLASS//FOUO~~

Good Afternoon Mr. Broyles,  
I spoke to Ms. Jemison this afternoon in regards to this court order I received. The court is requesting emails listed in this court order. I've requested to the CIO to assist in this matter right away if possible.

If you have further questions please contact either myself or Marie for assistance.

Sincerely,  
Teresa Woodard  
Security Specialist  
OSD/OMC





Privacy Act of 1974 as Amended applies - this email may contain information that is protected IAW DoD5400.11R and is For Official Use Only (FOUO).  
Caution: Information contained in this message may be protected by the attorney/client privilege, attorney work.

# Attachment C



told at that time to limit the search only to the email boxes of the prosecutors. Further, Ms. Woodard did not tell me which of the six individuals she identified were prosecutors.

4. On Thursday, 21 March 2013, I spoke with Captain Edward White, and Ms. Danielle Tarin, who identified themselves as counsel for the United States in the *al Qosi* matter to which this search was related. That was the first time they were made aware of the search parameters for this first search.

5. As I indicated in my 21 March 2013 declaration in this matter, the technician who performed this original search is my most experienced and capable ISR search technician, but he also has other important responsibilities relating to maintaining Microsoft Exchange email servers for the entire network serving the Office of the Secretary of Defense. During the time he was working on the original search on this ISR, he was also required to perform mission-critical duties related to a problem that arose with the operation of our email system.

6. On Monday, 25 March 2013, Ms. Tarin notified me that the original search results included email solely between defense counsel, and explained the requirement to limit the search solely to certain identified prosecution email accounts. I then concluded that the best way to remedy the situation was to re-run the search with the new parameters. In the course of developing those revised parameters, Ms. Tarin and I realized that one of the prosecutors whose email account should be searched had not been included in the initial search. Further, shortly before re-running the search, we also discovered that an additional defense counsel's name needed to be added. This time, Ms. Tarin identified for me who were the prosecutors and who were the defense counsel. I also understood her direction that we were not to search for any emails between or among members of the defense.

7. Nevertheless, through human error, it turned out that the email account of the defense counsel whose name was added at the end was included in the search. This error was discovered by a “privilege review team” of attorneys who screened these search results looking for just such mistakes. Based on their discovery of an intra-defense email, we stopped the review, scrubbed those search results, and undertook to re-execute the search a third time.

8. Since shortly after the first search was completed, and before the second search was undertaken, my principal expert ISR technician has been on leave outside the United States. As a result, I have had to rely on other, less experienced ISR technicians, who also have important collateral duties related to the operation of the OSD network, beyond ISR search execution. Further, because these other individuals are less experienced and less skilled than the principal ISR technician, conducting a search such as the one called for in this matter is more challenging for them than it might be for my expert were he available. Indeed, the technician who has principally responsible for executing the third search effort remained at work for approximately four hours beyond his normal duty hours yesterday evening, and had to spend considerable time talking with technical representatives of the search software vendor to get assistance in executing the search.

9. As a general rule, EITSD strives to provide a response to ISRs within 14 days, although historically EITSD has averaged a shorter turn-around, closer to eight or nine days. Some request obviously take longer than that, and others take less, depending on their complexity and scope. As a general rule, we operate on a modified first-in, first-out basis. In some instances, based on complexity, scope and available resources, I might adjust the priority of a particular request. As well, depending on the size of a search and the number of technicians available, there is a limit on the number of searches we can run simultaneously. At the moment, EITSD

has 10 ISRs pending. From 2011 to 2012, EITSD experienced nearly a 60% increase in ISR volume.

10. The third search, which we completed on 28 March 2013, produced over 541,000 emails. My team and I are standing by to continue to work with counsel for the Government to identify and produce to the Court all the documents responsive to its order as expeditiously as possible.

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

Executed on: 28 March 2013



Investigative Search Request Specialist  
Enterprise Information Technology Services Directorate  
Washington Headquarters Services  
United States Department of Defense

# Attachment D

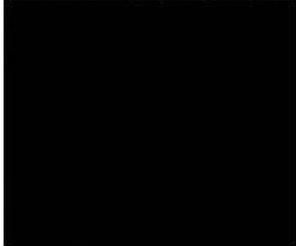
**Tarin, Danielle S CIV OSD OMC Prosecution**

---

**From:** [REDACTED] Mr WHS-EITSD  
**Sent:** Monday, March 25, 2013 6:53 AM  
**To:** Tarin, Danielle S CIV OSD OMC Prosecution  
**Cc:** [REDACTED] CIV WHS-EITSD; [REDACTED] CIV WHS-EITSD; [REDACTED] CIV WHS-EITSD  
**Subject:** WO0000000005324 ADM003075-12 WHS-ESD KBR NIPR/SIPR HOLD  
**Attachments:** RD ADM000501-13 OMC Court Order 7767894.docx  
**Signed By:** [REDACTED]

Danielle,

Investigative Search Request Specialist  
Greatness consists of  
how many people you serve.



**EITSD Requirements Document**

**SACCP ADM000501-13**

**WO0000000011438**

**OMC**

**Thursday, February 21, 2013**

**Wednesday, February 27, 2013 (updated date)**

**1. Point of Contacts**

NAME:	Teresa Woodward
PHONE:	[REDACTED]
EMAIL:	[REDACTED]

**2. Data to be searched (E-mail and/or Shared Files and/or HOME Directory)**

- Email,

**3. Search terms (using Boolean logic)**

- Any email communications between the recipients below.

NAME	COMMENTS
Dirk Padgett	
Seamus Quinn	Departed OMC-P
Suzan Lachelier	
Larry Martin	lhm@foleyhoag.com
Travis Owens	
Paul Reicheler	preichle@foleyhoag.com

**4. Search Dates (beginning and ending dates)**

- July 2009 through August 2010
- July 2009 through Present (updated date)

**5. CLASSIFICATIONS:**

UNCLASSIFIED	CLASSIFIED:
NIPR	SIPR
	JWICS

**6. Restore frequency**

- eVault

**7. Scope of users, organizations and/or servers**

- OMC

**8. Estimate/Actual Time and Cost (\$126.00 X TIME)**

\$126.00/HR	ESTIMATED ISR POC	ESTIMATED SRH TECH	ACTUAL ISR POC	ACTUAL SRH TECH
<b>TIME:</b>	<b>3 hours</b>	<b>1 Hour</b>	<b>3 HRS</b>	<b>1 HR</b>
<b>COST:</b>	<b>\$378</b>	<b>\$126</b>	<b>\$387</b>	<b>\$126</b>

**9. Requested Suspense Date:**

- Requesters Suspense DATE: 3/21/2013
- EITSD Suspense DATE: 3/20/2013

**10. Delivery media and method;**

NW PATH FOR TRANSFER OF RESULTS.
----------------------------------

O:\Prosecution\Records Management\Retain Files\OMC
--

**11. Privileged or Work Production Information:**

YES

I have spoken with Theresa Woodard of the OMC Convening Authority, and have no objection to the legal sufficiency of this search request.

Theresa:

This legal determination is limited to the propriety of conducting the administration search itself. As I expressed over the phone, I am concerned about protecting OMC-Prosecution attorney work product. Accordingly, prior to disseminating the results of this search, please consult with the OMC-Prosecution Records Keeper to make sure that all such records are protected from inadvertent distribution.

V/r

Paul

Paul A. Embroski  
 Assistant General Counsel  
 Special Assistant United States Attorney  
 Washington Headquarters Services  
 Department of Defense  
 The Pentagon  
 [REDACTED]

**12. ISR Completion Date:**

- 03/21/2013

**13. ISR Completion comment.**

- Records Found: (YES)
- Over 20,000 hits; the large number of hits is because the scope of the search was broad. If search terms would have been included the number of hits would have been reduced.

# Attachment E

**Tarin, Danielle S CIV OSD OMC Prosecution**

---

**From:** RSS dd - EITSD Investigative Search Requests  
**Sent:** Monday, March 25, 2013 8:06 AM  
**To:** Tarin, Danielle S CIV OSD OMC Prosecution  
**Subject:** WO0000000011438 ISR ADM000501-13 OMC PROSECUTORS 776789 Court Order  
**Signed By:** [REDACTED]

Danielle,

I found out from the tech this morning after we talked that the SPIR results have also been transferred to the location provided. Therefore those results will also be researched and the names you identified to me will be redacted.

I have a question. In EITSD process of submitting an ISR there is a question that asks who will be responsible to review the results for privileged or work production information. Here are the names that were provided that would be responsible to review the results. Teresa Woodard [REDACTED] Clemiencia Jemison

[REDACTED] and

[REDACTED] Are these individuals permitted to redact the results?

Thanks,

Investigative Search Request Specialist  
Greatness consists of  
how many people you serve.



# Attachment F

**Tarin, Danielle S CIV OSD OMC Prosecution**

---

**From:** White, Edward S CAPT OSD OMC Prosecution  
**Sent:** Wednesday, March 20, 2013 5:16 PM  
**To:** Woodard, Teresa Ms OSD OMC Convening Authority; Tarin, Danielle S CIV OSD OMC Prosecution; [REDACTED] Ms WHS-EITSD  
**Subject:** RE: Qosi comms search  
**Signed By:** [REDACTED]

Thanks, Teresa. We'll follow up with Ms. [REDACTED] and [REDACTED]

v/r, ESW

-----Original Message-----

**From:** Woodard, Teresa Ms OSD OMC Convening Authority  
**Sent:** Wednesday, March 20, 2013 5:12 PM  
**To:** White, Edward S CAPT OSD OMC Prosecution; Tarin, Danielle S CIV OSD OMC Prosecution; [REDACTED] Ms WHS-EITSD  
**Cc:** Woodard, Teresa Ms OSD OMC Convening Authority  
**Subject:** Re: Qosi comms search  
**Importance:** High

Good Afternoon CAPT White,  
Per our conversation this afternoon I spoke to the Branch Chief, Ms. [REDACTED] in regards to the research for the Court Order for OMC. They have several other organizations they are doing research also. I spoke the to her staff that is leading search [REDACTED] and of this afternoon they were still researching the Court Order for OMC. The amount and years for the research is insurmountable amount. Hopefully the research may be completed by Thursday, 21 March 2013.

Good Afternoon [REDACTED]  
CAPT White needs to request an extension through an Affidavit. He can tell you exactly what he needs.

If anyone need further assistance just let me know. I'm still on BB: [REDACTED] and on my way back to the office.

Sincerely,

CAP  
Teresa Woodard  
Special Security Officer  
OSD/OMC

[REDACTED]

----- Original Message -----

From: White, Edward S CAPT OSD OMC Prosecution

Sent: Wednesday, March 20, 2013 01:18 PM

To: Woodard, Teresa Ms OSD OMC Convening Authority; Tarin, Danielle S CIV OSD OMC Prosecution

Subject: Qosi comms search

Teresa,

Stopped by your office about 20 minutes ago, after my meeting with YNC [REDACTED] but you were out. Sorry I missed you.

Danielle told me you expect to provide us with the results of the email retrieval for the Qosi case tomorrow. Unfortunately, tomorrow is also our deadline to produce the responsive emails to the Court -- and we'll need time to review them before submission. So, I'm thinking we need to file a motion to extend our time before COB today. To support that motion we really need a written/signed declaration from someone -- maybe you, maybe someone at CIO who is working this issue -- to explain the relevant facts to the Court.

I'm out of the office myself, but would you please call me on my BB at [REDACTED] to discuss when you get this message? Thanks.

V/r, Ed White

Tomorrow

# Attachment G



respond within a specified time limit. One pending ISR requires EITSD to search information from 10,000 users over a twenty-year time period. Also, each search technician must balance executing ISRs with other work assignments, and a limited number of search technicians are qualified to execute the ISRs. Only one technician is qualified to conduct the ISR at issue in *Al Qosi*. Each of these factors impacts EITSD's ability to complete ISRs quickly. EITSD has made every effort possible to provide counsel for Respondent with the ISR results as soon as it can.

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

Executed on: 21 March 2013



Investigative Search Request Specialist  
Enterprise Information Technology Services Directorate  
Washington Headquarters Services  
United States Department of Defense

# Attachment H

**Tarin, Danielle S CIV OSD OMC Prosecution**

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**From:** RSS dd - EITSD Investigative Search Requests  
**Sent:** Tuesday, March 26, 2013 6:31 AM  
**To:** Tarin, Danielle S CIV OSD OMC Prosecution  
**Cc:** [REDACTED] CIV WHS-EITSD; [REDACTED] CIV WHS-EITSD; Tarin, Danielle S CIV OSD OMC Prosecution; [REDACTED] CTR WHS-EITSD  
**Subject:** WO0000000011438 ISR ADM000501-13 OMC Court Order 7767894  
**Signed By:** [REDACTED]

Danielle,

You don't have to worry about seeing any emails with privileged or work production information in the results.

Remember the computer only does what you tell it, it is objective in its search. The search will be any emails FROM or TO the prosecution attorneys TO the defense or FROM the defense attorneys. Again no responsive records will between the defense attorneys themselves will end up in the results. Once the technician inputs the search parameters into search engine it will only provide responsive results based upon those requirements.

The search does not have to be executed within the mailboxes of the defense attorneys to provide the responsive results you are seeking.

I hope that helps,

Investigative Search Request Specialist  
Greatness consists of  
how many people you serve.



-----Original Message-----

**From:** Tarin, Danielle S CIV OSD OMC Prosecution  
**Sent:** Monday, March 25, 2013 6:26 PM  
**To:** [REDACTED] Mr WHS-EITSD  
**Subject:** RE: RD ADM000501-13 OMC Court Order 7767894.docx

[REDACTED] would you please confirm that EITSD is searching for responsive emails in only the prosecution team members' email accounts?

Thank you.

Best,  
Danielle

-----Original Message-----

From: [REDACTED] Mr WHS-EITSD  
Sent: Monday, March 25, 2013 12:09 PM  
To: Tarin, Danielle S CIV OSD OMC Prosecution  
Subject: RD ADM000501-13 OMC Court Order 7767894.docx

Danielle,

Please review this Requirements Document to make sure I am accurate. The word waiv is that correct or should it have an "e" wave or is this an acronym?

Thanks,

Investigative Search Request Specialist  
Greatness consists of  
how many people you serve.



# Attachment I

**Tarin, Danielle S CIV OSD OMC Prosecution**

**From:** [REDACTED] CIV WHS-EITSD  
**Sent:** Wednesday, March 27, 2013 7:09 PM  
**To:** OSullivan, Michael Col OSD OMC Prosecution; [REDACTED] CTR, DoD OGC; Apostol, Liam, Mr, DoD OGC; [REDACTED] Mr, DoD OGC  
**Cc:** White, Edward S CAPT OSD OMC Prosecution; Tarin, Danielle S CIV OSD OMC Prosecution; [REDACTED] Mr WHS-EITSD; [REDACTED] CTR WHS-EITSD  
**Subject:** Current Update as of 1907  
**Signed By:** [REDACTED]

Col O'Sullivan,

There were unforeseen technical issues regarding the search and Operations had to restart the search. The search is running now but it will not be completed until late tonight or tomorrow morning.

The initial ISR results were provided based on the identified requirements which met the initial SLA. The search was modified by OMC. Therefore, the search required modifications of the search parameters.

There is no way to expedite the search since it has to create and search all the Exchange vaults while at the same time create indexes.

V/r,

-----Original Message-----

**From:** OSullivan, Michael Col OSD OMC Prosecution  
**Sent:** Wednesday, March 27, 2013 6:28 PM  
**To:** [REDACTED] CIV WHS-EITSD; [REDACTED] CTR, DoD OGC; Apostol, Liam, Mr, DoD OGC; [REDACTED] Mr, DoD OGC  
**Cc:** White, Edward S CAPT OSD OMC Prosecution; Tarin, Danielle S CIV OSD OMC Prosecution; [REDACTED] Mr WHS-EITSD; [REDACTED] CTR WHS-EITSD  
**Subject:** RE: : Current Update as of 1824

I thought this search was started a couple of hours ago when we spoke. They're just now getting started?

-----Original Message-----

**From:** [REDACTED] CIV WHS-EITSD  
**Sent:** Wednesday, March 27, 2013 6:27 PM  
**To:** OSullivan, Michael Col OSD OMC Prosecution; [REDACTED] CTR, DoD OGC; Apostol, Liam, Mr, DoD OGC; [REDACTED] Mr, DoD OGC  
**Cc:** White, Edward S CAPT OSD OMC Prosecution; Tarin, Danielle S CIV OSD OMC Prosecution; [REDACTED] Mr WHS-EITSD; [REDACTED] CTR WHS-EITSD  
**Subject:** : Current Update as of 1824

Col O'Sullivan,

Operations just started the revised SIPR search this afternoon it is running now.

As soon as we have finished the search and export will be done. A completion notification will be sent to everyone on this email string,

V/r,

-----Original Message-----

From: OSullivan, Michael Col OSD OMC Prosecution

Sent: Wednesday, March 27, 2013 4:40 PM

To: [REDACTED] CTR, DoD OGC; Apostol, Liam, Mr, DoD OGC; [REDACTED] Mr, DoD OGC

Cc: White, Edward S CAPT OSD OMC Prosecution; Tarin, Danielle S CIV OSD OMC Prosecution; [REDACTED]

[REDACTED] CIV WHS-EITSD; [REDACTED] Mr WHS-EITSD; [REDACTED] CTR WHS-EITSD

Subject: RE: Current Update as of 1609

Thanks much Mr [REDACTED] We appreciate it.

MOS

-----Original Message-----

From: [REDACTED] CTR, DoD OGC

Sent: Wednesday, March 27, 2013 4:20 PM

To: OSullivan, Michael Col OSD OMC Prosecution; Apostol, Liam, Mr, DoD OGC; [REDACTED] Mr, DoD OGC

Cc: White, Edward S CAPT OSD OMC Prosecution; Tarin, Danielle S CIV OSD OMC Prosecution; [REDACTED]

[REDACTED] CIV WHS-EITSD; [REDACTED] Mr WHS-EITSD; [REDACTED] CTR WHS-EITSD

Subject: RE: Current Update as of 1609

Sir,

We have created the mailbox on the SIPR and mapped the 3 OGC reviewers to that mailbox, so on the SIPR it should just be a matter of disconnecting the old pst and reconnecting to the new pst files.

I will work on creating a similar process on the NIPR and that should be completed this evening.

Thanks

[REDACTED]  
OGC Project Manager  
[REDACTED]

[REDACTED]

CAUTION: This message may contain information protected by the attorney-client, attorney work product, deliberative process, or other privilege. Do not disseminate without the approval of the Office of the DoD General Counsel.

-----Original Message-----

From: OSullivan, Michael Col OSD OMC Prosecution

Sent: Wednesday, March 27, 2013 4:09 PM

To: Apostol, Liam, Mr, DoD OGC; [REDACTED] Mr, DoD OGC

Cc: White, Edward S CAPT OSD OMC Prosecution; Tarin, Danielle S CIV OSD OMC Prosecution; [REDACTED]

[REDACTED] CIV WHS-EITSD; [REDACTED] Mr WHS-EITSD; [REDACTED] CTR, DoD OGC; [REDACTED]

CTR WHS-EITSD

Subject: Current Update as of 1609

Liam [REDACTED]

Just got off the phone with [REDACTED] and [REDACTED]. They are running the search until it is complete. Here's the search parameters:

They are searching only the mailboxes of Dirk Padgett, Ralph Paradiso, and Seamus Quinn and searching only for emails that have one or more of the following words or roots: "waiv"; "appeal"; "appellate"; and "withdraw." They are searching only during the period between July 2009 and present.

This search should only produce emails between prosecution counsel or directed to defense counsel or from defense counsel sent to prosecution counsel.

He expects the searches on SIPR and NIPR to be done between 1730 and 1800, but that's an estimate.

He will load the results, once completed, into the shared drive destination used for the same purpose earlier today and he will delete the original file from that space so there's no confusion about which file needs to go to the privilege review attorneys. At that point, we probably need OGC IT (Mr [REDACTED] or designee) to load that pst file into the reviewing attorneys' mailboxes so they can conduct the review.

All those on this email, let me know if you have any questions or concerns.

Thanks,

MOS

MICHAEL J. O'SULLIVAN, Col, USAF

Deputy Chief Prosecutor

Office of the Chief Prosecutor of Military Commissions

1610 Defense Pentagon

Washington DC 20032

[REDACTED]

3 June 2013

MEMORANDUM FOR THE OFFICE OF THE CHIEF PROSECUTOR, OFFICE OF  
MILITARY COMMISSIONS

FROM: Cheryl Bormann, Learned Counsel for Walid bin ‘Attash

SUBJECT: Request for Production of Records and Identities of Witnesses

Pursuant to RMC 701, 703(f), 10 U.S.C. § 949j(a), Mr. bin ‘Attash requests that the government provide the following information in discovery. Failure to provide the requested materials and information will deny Mr. bin ‘Attash his rights to the due process of law, to the effective assistance of counsel, a fair, speedy, and public trial, and to be free from cruel and unusual punishment, guaranteed by the Fifth, Sixth, and Eight Amendments to the United States Constitution and/or other provisions of U.S. and international law.

**Information Requested**

1. Produce all materials known to the government regarding *any* intrusion into electronic or physical spaces containing defense-related and/or defense-produced materials made between 2008 and the present by persons other than defense counsel and their teams, including but not limited to the intrusion referred to in AE-154, Government Notice of Events Related to Protection of Privileged Materials, files 8 April 2013.
2. Produce all materials the existence of which would be known to the government with the exercise of due diligence regarding *any* intrusion into electronic or physical spaces containing defense-related and/or defense-produced materials made between 2008 and the present by persons other than defense counsel and their teams, including but not limited to the intrusion referred to in AE-154, Government Notice of Events Related to Protection of Privileged Materials, files 8 April 2013.
3. This request seeks identification and production of all information and materials the existence of which is known to the government or would be known to the government with the exercise of due diligence on the specified subjects, including but not limited to electronic files of any type, physical documents, personal notes, emails, reports.

4. Additionally, the defense requests the production of all JTF-GTMO orders, directives, “JQRs,” and Standard Operating Procedures governing the search and seizure of attorney-client communications, to include JDG Procedure [REDACTED] JDG SOP [REDACTED]  
[REDACTED]

5. Please provide a full, complete, and un-redacted copy of all information identified in response to requests 1-4 made above.

6. Please identify all persons known to the government to have information concerning the intrusions identified in response to the paragraphs 1-4 above, including but not limited to persons associated with the Office of the Chief Prosecutor (also sometimes referred to as the Office of Military Commissions-Prosecution), the Office of Military Commissions and/or the Office of the Convening Authority, the Court of Military Commissions Review, the Washington Headquarters Service Enterprise Information Technology Services Directorate (EITSD), Joint Task Force Guantanamo and/or the Joint Task Force Guantanamo Joint Detention Group and J2 Intelligence Directorate.

#### **Definitions**

7. The term “intrusion” in this request includes, but is not limited to, accessing electronic spaces where information is stored, and/or retrieving, browsing, observing, identifying, examining, or archiving electronic information contained there.

8. The term “defense-related” refers to information reasonably related to or expected to relate to the legal representation of Mr. bin ‘Attash, any of his co-accused, or any other detainee held in Guantanamo Bay, Cuba. Such information includes but is not limited to materials protected by the attorney-client privilege, the attorney work product doctrine, or other obligations of attorneys to maintain the confidentiality of client and case-related information. This term refers to materials or information in any form, and includes, but is not limited to, electronic data of any type, word processing or database files, email, software programs, telephone calls, or voicemail messages.

9. The term “defense-produced” refers to information produced, created, generated, or conceived in the legal representation of Mr. bin ‘Attash, any of his co-accused, or any other detainee held in Guantanamo Bay, Cuba. Such information includes but is not limited to materials protected by the attorney-client privilege, the attorney work product doctrine, or other obligations of attorneys to maintain the confidentiality of client and case-related information. This term refers to materials or information in any form, and includes, but is not limited to, electronic data of any type, word processing or database files, email, software programs, telephone calls, or voicemail messages.

10. The term “electronic spaces” refers to any physical or virtual location where such information is stored or located, whether or not classified, including but not limited to computer networks, hard drives, “cloud” storage, tape drives, and without limitation any space used, designed, purchased, intended, or otherwise allocated, to the Office of the Chief Defense Counsel (also sometimes referred to as Office of Military Commissions-Defense), attorneys and their teams representing detainees held at Naval Station Guantanamo Bay, Cuba, including, but not limited to, the accused in the case of *United States v. Khalid Shaikh Mohammad, et al.*, the accused in other Military Commissions proceedings (actual or anticipated), and detainees in habeas corpus proceedings, and including but not limited to the so-called “O drive,” and “H drives” on Department of Defense networks and information technology resources provided to Office of the Chief Defense Counsel for use by defense counsel teams.

Thank you for your attention to this matter.

Respectfully submitted,

CHERYL T. BORMANN

Learned Counsel for Walid bin Attash



June 10, 2013

MEMORANDUM FOR Defense Counsel for Walid bin 'Attash

SUBJECT: Prosecution Response to 3 June 2013 Request for  
Discovery

1. The Prosecution received the Defense request for discovery on 3 June 2013. The Prosecution hereby responds to the Defense request.
2. The Defense in its memorandum on 3 June 2013 requests production of discovery regarding "any intrusion into electronic or physical spaces containing defense-related and/or defense-produced materials..." including but not limited to the "intrusion" referred to in AE-154, Government Notice of Events Related to Protection of Privileged Materials, filed 8 April 2013. The Defense also requests specific JTF-GTMO SOPs. The Prosecution responds, as follows, in bold:

**During the February hearings, witnesses called by the Defense relating to AE 133 unequivocally confirmed that no entity of the United States Government is listening, monitoring, or recording privileged communications between the five Accused and their counsel at any location where the attorneys meet their clients in Guantanamo Bay. The Prosecution also has previously produced emails relating to AE 133, pursuant to previous discovery requests. As such, the Defense has been provided extensive discovery and evidence demonstrating that no electronic or physical "intrusion" has taken place at Guantanamo Bay.**

**With respect to so called "intrusion" of electronic or physical spaces the Prosecution is unaware of any such "intrusion" as defined in paragraph 7 of your request.**



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ATTORNEY/DETAINEE VISITATION,  
11 February 2013

STP 19-31E1-SM Soldiers Manual MOS 31E Internment and Resettlement Specialist Skill Level 1  
STP 19-31E24-SM Manual MOS 31E Internment and Resettlement Specialist Skill 2/3/4 Soldier's Manual and Trainers Guide  
SOP #10 Escort Procedures  
SOP #27 General Guidelines for Camp Operations  
SOP #33 Restraint Procedures

**11-1. PURPOSE.** To establish procedures for attorney/detainee visitation procedures within the Joint Detention Group (JDG) areas of operation.

**11-2. APPLICABILITY.** This Standard Operating Procedure (SOP) applies to all assigned, attached, or operationally controlled personnel working for Joint Task Force Guantanamo (JTF-GTMO), Guantanamo Bay, Cuba.

**11-3. GENERAL.**

a. The Commander, Joint Detention Group (CJDG) retains sole authority to modify any visit due to unanticipated operational or security needs. Counsel will be advised of these modifications as soon as possible. JDG personnel will take reasonable steps to support and to minimize any disruption of "previously approved" visits.

b. "Counsel" or "counsel" as used herein, shall be defined as all individuals within the litigation team, to include, but not limited to, co-counsel, interpreters, translators, paralegals, investigators, and all other personnel or support staff authorized and engaged in, or employed to, assist the litigation team. This applies to habeas, Office of Military Commissions Defense (OMC-D) teams and Office of Military Commissions Prosecution (OMC-P) teams.

(1) For commissions purposes only - Medical professionals do not fall under the definition of Counsel. Medical professionals who have been appointed as commissions' defense team consultants may be permitted access to JTF-GTMO detention facilities upon written request to Commander, JTF-GTMO explaining the purpose of the visit. Materials that medical professionals bring into meetings are subject to the same restrictions delineated in this SOP.

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c. Requests for visitation. All requests for visits shall include, at a minimum, the name of the detainee(s) to be visited and the date(s) of the proposed visits. Additionally, requests for habeas visits must include the number of detainees visited per day. Reasonable efforts will be made to accommodate specific date requests. All counsel must have a valid and current security clearance of Secret or higher or their visitation request will be denied.

(1) Habeas Requests. Requests for habeas visits must be submitted to the Department of Defense (DoD) via Department of Justice (DOJ) at least 20 days in advance of any requested visit date. If the request is approved, DoD will advise counsel. Habeas visitation requests made inside of 20 days will not normally be granted.

(2) Requests for commissions visits must be submitted to the JTF-GTMO OSJA designated representative at least 14 days in advance of the requested visit date. If the request is approved, JTF-GTMO OSJA (military commissions) will advise counsel. Commissions visitation requests made inside of 14 days will not normally be granted.

d. Habeas Flight Confirmations. No less than 20 days prior to a requested visit date, habeas counsel must provide DoD with confirmed flight information for travel to Guantanamo Bay, Cuba (GTMO). Flight information is required to procure required theater and country clearances prior to execution of travel to GTMO by counsel. Any changes to counsel's itinerary (including flight dates and times) will require modified clearances and may be subject to the withdrawal of approval.

e. Communications with JTF-GTMO personnel. At no time are counsel permitted to solicit information on camp operations or other aspects of JTF-GTMO operations from guards or other JTF personnel. Any attempts by counsel to solicit information must be immediately reported to the JTF-GTMO OSJA.

f. Habeas Changes or Cancellations. If habeas counsel wishes to change their visitation schedule or cancel a scheduled visit with one (1) detainee in order to meet with another detainee, any request to do so must be submitted in writing to the JTF-GTMO OSJA via the appropriate DoD/DOJ channels if the revised scheduling request is submitted before counsel arrives

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on island.

g. Commissions Changes or Cancellations. If commissions counsel wishes to change their visitation schedule or cancel a scheduled visit with one (1) detainee in order to meet with another detainee, any request to do so must be submitted in writing to the JTF-GTMO OSJA if the revised scheduling request is submitted before counsel arrives on island. All requests by counsel who have arrived on island to change their visitation schedule will be submitted in writing to the JTF-GTMO OSJA for consideration.

**11-4. DETAINEE REQUEST FOR LEGAL REPRESENTATION PROCEDURES.**

a. Detainees may make a request for legal representation at any time.

b. Guard force will:

(1) Provide the detainee with the Legal Representation Request Form. See Appendix A, Legal Representation Request Form.

(2) Forward the paperwork to the Watch Commander.

(3) Ensure that the requests are annotated in the [REDACTED] and forward to the JOC.

c. The JOC will:

(1) Package all requests and ensure that the JTF-GTMO OSJA receives the paperwork the next duty day.

(2) Annotate i [REDACTED] when JTF-GTMO OSJA has received the attorney requests forms.

**11-5. VISITATION HOURS.**

a. Habeas Visitation Hours:

(1) Monday through Friday from 0915 to 1230 hours and from 1330 to 1630.

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(2) Visitation is normally not allowed on Saturday, Sunday or Federal holidays.

(3) CJDG may approve special Habeas visitation on Saturday, Sunday, or federal holidays.

(4) Entry inspections will begin no earlier than 0830. Counsel are expected to arrive at Camp Echo NLT 0915 hrs and 1330 hrs.

(5) If counsel has items that require screening before entering the detention facilities, sufficient prior notice to the JTF-GTMO OSJA is required to arrange for screening of the items.

(6) If sufficient prior notice is not given, counsel may be prohibited from bringing the items into the detention facilities.

b. Commissions Visitation Hours:

(1) Monday through Friday from 0915 to 1230 hours and from 1330 to 1630.

(2) Visitation is normally not allowed on Saturday, Sunday or Federal holidays.

(3) CJDG may approve special Commissions visitation on Saturday, Sunday, or federal holidays.

(4) Entry inspections will begin no earlier than 0830. Counsel are expected to arrive at Camp Echo NLT 0915 hrs and 1330 hrs.

(5) If counsel has items that require screening before entering the detention facilities, sufficient prior notice to the JTF-GTMO OSJA is required to arrange for screening of the items.

(6) If sufficient prior notice is not given, counsel may be prohibited from bringing the items into the facilities.

c. Timeliness. If either habeas or commissions counsel arrives at Camp Echo more than 30 minutes after the scheduled

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start of a requested meeting, the meeting is subject to cancellation by the JTF-GTMO OSJA. Failure to arrive within 45 minutes of a scheduled meeting will result in the cancellation of the requested meeting. If a morning meeting is cancelled due to counsel's failure to appear within 45 minutes of a scheduled meeting, any afternoon meeting involving the violating counsel may be cancelled at the discretion of the JTF-GTMO OSJA.

d. Requests for Extended Visitation. Changes to normal visitation hours are at the discretion of CJDG.

e. Requests to Modify Schedule. Any request to modify the order of a visitation schedule shall be submitted as soon as the need to modify is known. If counsel desires to modify a visit schedule after their arrival at JTF-GTMO, they must submit a written request to the JTF-GTMO OSJA. Due to operational and logistical concerns, requests to modify a "previously approved" visitation schedule will be granted only if the JOC determines that the modification can be supported and there will be no significant impact on JTF-GTMO operations.

#### **11-6. VISITATION PROCEDURES .**

a. The JTF-GTMO OSJA is responsible for coordinating all attorney visits. Any issues raised by visiting attorneys will be addressed by the JTF-GTMO OSJA. Attorneys with questions or complaints should be politely asked to address them to the JTF-GTMO OSJA in writing. If there are any questions or problems, contact the JTF-GTMO OSJ [REDACTED]

b. Detainee Notification of Legal Appointments: Camp personnel will notify a detainee of a scheduled legal appointment at a minimum of 24 hours before the scheduled appointment.

c. A linguist should be utilized if there is any question about the detainee's ability to understand the nature of the meeting. If the detainee refuses to attend the scheduled meeting, notify the JOC. The JOC will in turn notify the JTF-GTMO OSJA immediately. Counsel may then submit a non-privileged letter to the detainee asking him to reconsider his refusal to meet. A member of the JTF-GTMO OSJA will hand-deliver the letter to the detainee. If the detainee agrees to meet with the attorney, the JOC must be contacted immediately to track the

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movement. A detainee is not entitled to send a "reply letter" to counsel and any reply letter written by or on behalf of a detainee will not be delivered by the JTF-GTMO OSJA.

d. JDG escorts will be on-site and initiate the detainee movement to the legal appointment site [REDACTED] prior to the scheduled legal appointment. The JOC OIC will be immediately notified if any manning issues or discrepancies are noted. If the detainee takes more than 15 minutes to come out for his appointment; the appointment is considered refused by the detainee.

e. Camp Leadership will ensure [REDACTED] entries are made when the detainee is notified of the legal appointment, when escorts arrive to initiate the movement, and any actions by the detainee to stall moving to the legal appointment site.

f. Escort Requirement for Counsel. Habeas Counsel will be escorted by JTF-GTMO OSJA personnel at all times while on the Windward side of NAVSTA GTMO, including JTF-GTMO. Habeas counsel will not travel anywhere while on the Windward side of NAVSTA GTMO, unless specifically authorized, accompanied, and escorted by their assigned military escort. Military commissions counsel may travel on the Windward side of the island without escorts.

(1) **Camp Echo Visits:** An escort from JTF-GTMO OSJA office must accompany counsel into Camp Echo for screening. For meetings held in Camp Echo, Camp Echo guards are responsible for escorting counsel to the meeting rooms and, upon the completion of a meeting, escorting counsel back to the screening room for rescreening.

g. Restraint Level. At a minimum, detainees will be secured in the visitation room [REDACTED] IAW JDG SO [REDACTED] unless otherwise directed by CJDG.

h. Badge Issued to Counsel. While visiting JTF-GTMO, all counsel will be issued a visitor's badge. Counsel are not permitted to damage, tamper with, alter, copy, photograph, or otherwise reproduce any visitor's badge in any way. The visitor's badges are the property of JTF-GTMO and must be surrendered prior to leaving GTMO or upon demand.

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i. Electronic Devices, Habeas Counsel. Habeas counsel may not possess electronic recording or communication devices of any type on the Windward side of the island. This includes, but is not limited to; recording devices, cameras, cellular or satellite phones, personal digital assistants (PDAs), laptops, MP3 players, portable electronic devices, and related equipment. If any such devices are brought to the Windward side of the island, the device must be surrendered or it will be confiscated by JTF-GTMO officials.

(1) Photographing and Recording. Counsel may not take any photographs nor make any recordings of any type while at JTF-GTMO. Exceptions to this policy may be granted only by advance written approval of Commander, JTF-GTMO. This prohibition includes both the Windward and Leeward sides of the island.

j. Designated Meeting/Visitation Rooms. The only authorized locations for detainee legal visits are the designated meeting rooms in Camp Echo and Camp Iguana for the (residents there). Counsel are not permitted access to any other areas of any camp.

k. Authorized Items in Habeas Meetings. Habeas Counsel may only bring into a detainee meeting those items that are specifically permitted by the applicable Habeas Protective Order. In accordance with the applicable Habeas Protective Order, counsel may bring legal mail cleared by the Privilege Team, writing utensils, and blank paper into meetings with detainees. No other items are authorized unless specifically permitted.

(1) In the event that there is any direct conflict between this SOP and any Memorandum signed by the JTF Commander regarding Commissions Policy and Procedures, the JTF Commander's Memorandum shall govern.

l. Authorized Items in Commissions Meetings. Commissions Counsel may only bring into a detainee meeting those items which are specifically permitted by the governing policy memorandum, currently the "Busby Memorandum." In accordance with the Busby Memorandum, counsel may only bring legal mail approved and stamped by the JTF-GTMO OSJA until such time as a Privilege Review Team is set up for military commissions.

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m. At no time will the aggregate number of persons in a Camp Echo meeting room exceed five (5) including the detainee.

(2) **Camp VI Visits:**

a. The scheduling of meetings in Camp VI will only be scheduled for special cases, upon approval of CJDG. At no time will the aggregate number of persons in a Camp VI meeting room exceed five (5) people, including the detainee.

b. May be approved only after all other options to conduct the visit in Camp Echo and mission allows for a visit.

c. An escort from JTF-GTMO OSJA office must accompany counsel into Camp Echo for screening. Upon the completion of C [REDACTED] counsel will escort counsel [REDACTED] and remain until counsel has moved into [REDACTED] meeting rooms.

d. At the conclusion of counsel's meeting [REDACTED] JTF-GTMO OSJA personnel will escort counsel [REDACTED] back to Camp Echo for rescreening [REDACTED]  
[REDACTED]

e. All visitors to detention facilities, including counsel, must follow the instructions and directions of JDG and guard force personnel. Failure to follow their instructions or directions as given may result in removal from the camp and/or a denial of further visitation privileges.

f. All visitors are subject to search upon arrival and prior to departure. All searches will take place at Camp Echo, where security personnel will perform a contraband inspection of counsel using metal detectors, as well as a physical inspection of counsels' bags and briefcases and, if determined necessary, a physical inspection of his/her person. Search of documents is limited to a cursory scan to ensure that only legal mail, cleared documents and items, and documents of a legal nature are brought into a meeting. If contraband is discovered during the inspection, notify the camp leadership and JTF-GTMO OSJA immediately.

g. With the exception of Habeas paperwork, no counsel representing a Camp Iguana detainee will introduce any item(s)

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into Camp Iguana. Counsel who wish to give their clients items(s) other than Habeas paperwork are required to present the items(s) to the JTF-GTMO OSJA who will route the item(s) through the JOC for proper vetting and decision to approve or deny the items introduction into Camp Iguana.

h. Unless authorized by CJDG, counsel cannot use the telephones in the interview areas for any purpose other than emergency calls to JTF-GTMO personnel regarding a problem in the interview area. Counsel shall not permit a detainee to use a telephone for any purpose.

i. Counsel are authorized to bring food, Zam Zam water, Miswak, and cologne into detainee meetings; however, all such items must be consumed during the visit or removed from the detention facility by counsel at the conclusion of the meeting. Camp personnel will inspect the items being brought into the meeting. The camp personnel or Guard Force may refuse to allow any specific food item or packaging into the meeting area. Camp personnel or Guard Force retains sole authority to determine whether the proposed items constitute a hazard or other security concern (including the right to prohibit in their sole discretion any coolers, large cases or purses, or other storage containers from entering meetings). Counsel must ensure that all items, including debris, are collected from the meeting prior to departing each scheduled meeting. Counsel must agree to notify the guards if a detainee keeps and/or refuses to return any item brought into a meeting by counsel, unless counsel is personally aware that the detainee is authorized to keep the item. Failure to notify the camp personnel or Guard Force may result in a loss of the privilege to bring food or other items into future meetings.

**11-7. ELECTRONIC MONITORING OF ATTORNEY-DETAINEE VISITS**

a. Video cameras shall remain on their widest zoom setting.

b. Guard force personnel are authorized to zoom in the camera when a potential force protection or security concern arises. (For example, a detainee's hands are out of view and guards cannot readily assess whether the detainee is engaged in act of harm to self or others or to attempt escape, or there is an apparent act of harm to self or others.

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c. Guard force personnel may zoom for the minimum time necessary to determine whether the detainee is taking actions to engage in harm to self or others, or is attempting to escape. If guard force cannot immediately assess the actions of the detainee, they shall dispatch guards to the meeting room to visually assess the situation.

d. Any use of the zoom feature of a video camera will be logged into the appropriate logs and a voice report made to the Joint Operations Center (JOC) and the Camp Officer in Charge (OIC).

e. Guard force shall not zoom the camera on any documents. These documents are presumed to be protected under the attorney-client and attorney work product privileges.

f. Audio monitoring of meetings between detainees and their attorneys is not authorized.

**11-8. LEGAL CORRESPONDENCE HANDLING.**

a. Initial Detainee Meetings, Habeas and Commissions. During the first meeting with a detainee, counsel is permitted to bring letters, tapes or other communications that introduce the counsel to the detainee. All such items that counsel intend to take into a first meeting with a detainee must be submitted to the government for review for security purposes prior to it being brought into the meeting. Counsel is responsible for delivering such materials to the JTF-GTMO OSJA not less than 21 days in advance of the meeting to allow for such screening. Counsel should not expect to have materials submitted less than 21 days in advance of the visit to be cleared in time for the meeting with the detainee.

(1) Habeas Counsel. As noted in the Amended Protective Order, the government is permitted to review the communication for security purposes prior to it being brought into the meeting.

b. Completion of Habeas Meetings:

(1) Upon the completion of each habeas meeting with a detainee, or during any break in a meeting session, counsel must

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give all their notes or other documents used or produced during the meeting to the legal escort.

(2) Counsel cannot retain any materials in their possession when they leave the meeting with the detainee. In counsel's presence, during the "screening out" procedure (see also 11-7c below), the legal escort will seal the materials in a container (envelope) designed to ensure that no privileged material is compromised.

(3) Items will be sealed in front of the SJA representative and kept in an appropriate container by the habeas escort throughout a lunch break.

(4) If the sealed materials are needed for an afternoon session with the same detainee, these items will be returned to counsel during the afternoon screening process in Camp Echo.

(5) These documents will not be provided to counsel during the lunch period. At the completion of the visit, all materials will be sealed in an envelope, in counsel's presence, marked appropriately, and then provided by the JTF-GTMO OSJA to the on-island Privilege Team.

(6) If there are any items for which counsel does not claim privilege, the same procedure shall apply, except that the envelope containing the items in questions shall be clearly marked as "Non-Legal Mail" in the presence of counsel and submitted by the JTF-GTMO OSJA to the J-2 for screening.

c. Post Meeting Screening.

1. Counsel will be screened at Camp Echo.

2. Screening will be conducted using [REDACTED] cursory review of items and materials.

3. If deemed necessary, guard force will conduct a physical inspection of counsels' person(s).

d. Mail Delivery Procedures. For mail delivery of legal and non-legal mail/materials, refer to JDG Standard Operating

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Procedure #41, Detainee Mail Handling.

e. Counsel will not send non-legal mail/materials through the procedure for legal mail/materials.

f. If a special meeting is approved by CJDG and is conducted in Camp VI, counsel will be escorted from the Camp Echo screening building to the habeas rooms in Camp VI by JTF-GTMO OSJA personnel. During the meetings, security will be provided by Camp VI personnel. At the conclusion of the meeting, JTF-GTMO OSJA personnel will arrive at Camp VI and escort counsel from the habeas rooms back to Camp Echo for "screening out" in accordance with this SOP.

**11-9. AUTHORIZED MATERIALS.**

a. Books, magazines, and CDs/DVDs that are sent by any counsel will be considered donations to the detainee library and will be processed accordingly. These items will not be provided directly to individual detainees, except as authorized by JTF-GTMO Detainee Library procedures, or by CJDG.

b. Items that are not approved for inclusion in the Detainee Library will be disposed of in a manner deemed appropriate by the JTF-GTMO OSJA.

c. Books or magazines donated should focus on generally positive themes, such as:

(1) Family.

(2) Tolerance.

(3) Mental diversion that draws the detainee toward a peaceful existence and the potential for new things (hope).

**11-10. UNAUTHORIZED MATERIALS.**

a. The following items are unauthorized to be brought into or sent to any detention facility by counsel:

(1) Weapons

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(2) Photography or recording devices of any kind and all electronic equipment (Exception: JTF-GTMO OSJA has DVD players cleared for use during detainee visits conducted in Camp Echo only.)

(3) Prescription/non-prescription drugs

(4) Forks and knives of any type

(5) Flowers

(6) Balloons

(7) Paper clips

(8) Staples

(9) Extra clothing (except light jackets, shawls, sweaters, and similar outer clothing to keep warm in air conditioned spaces or, in the case of female visitors, to cover skin)

(10) Any item that can be fashioned or utilized as a weapon.

(11) Playing cards of any type.

(12) Any item of value.

b. Prohibited information includes: non-legal correspondence, documents, personal letters or similar materials if they have not been pre-screened and cleared by S-2, J2, or the JTF-GTMO OSJA. Examples include: books, family letters, pictures, magazines, newspapers, and non-governmental agency reports (e.g., Amnesty International reports, Human Rights Watch reports or any other similar publication).



JOHN V. BOGDAN  
COL, MP  
Commanding

JDG STANDARD OPERATING PROCEDURE #11  
ATTORNEY/DETAINEE VISITATION,  
11 February 2013

Enclosure

Appendix A, Legal Representation Request Form

**Legal Representation Request**

I, \_\_\_\_\_, wish to have a civilian lawyer represent me and assist me with filing a petition to challenge the Combatant Status Review Tribunal determination that I am an Enemy Combatant, in the U.S. Circuit Court of Appeals for the Circuit of the District of Columbia, as is my right under the Detainee Treatment Act. I request that the Presiding Judge appoint and /or find a lawyer who will represent my best interests, without charge.

I speak the following language (s)

Signed  
ISN

Date

PLEASE NOTE: If you are already represented by an attorney or counsel, you must contact them directly.

UNCLASSIFIED//FOR PUBLIC RELEASE

JDG STANDARD OPERATING PROCEDURE #11  
ATTORNEY/DETAINEE VISITATION,  
11 February 2013  
**PLEASE RETURN THIS FORM TO THE SJA**

11-15

UNCLASSIFIED//FOR PUBLIC RELEASE

Filed with TJ  
19 June 2013

Attachment H  
Page 17 of 35

Appellate Exhibit 177 (WBA)  
Page 93 of 111

MEA-SOP-0000023

JDG PROCEDURE #34  
SEARCH AND INSPECTION PROCEDURES  
15 MAY 2013

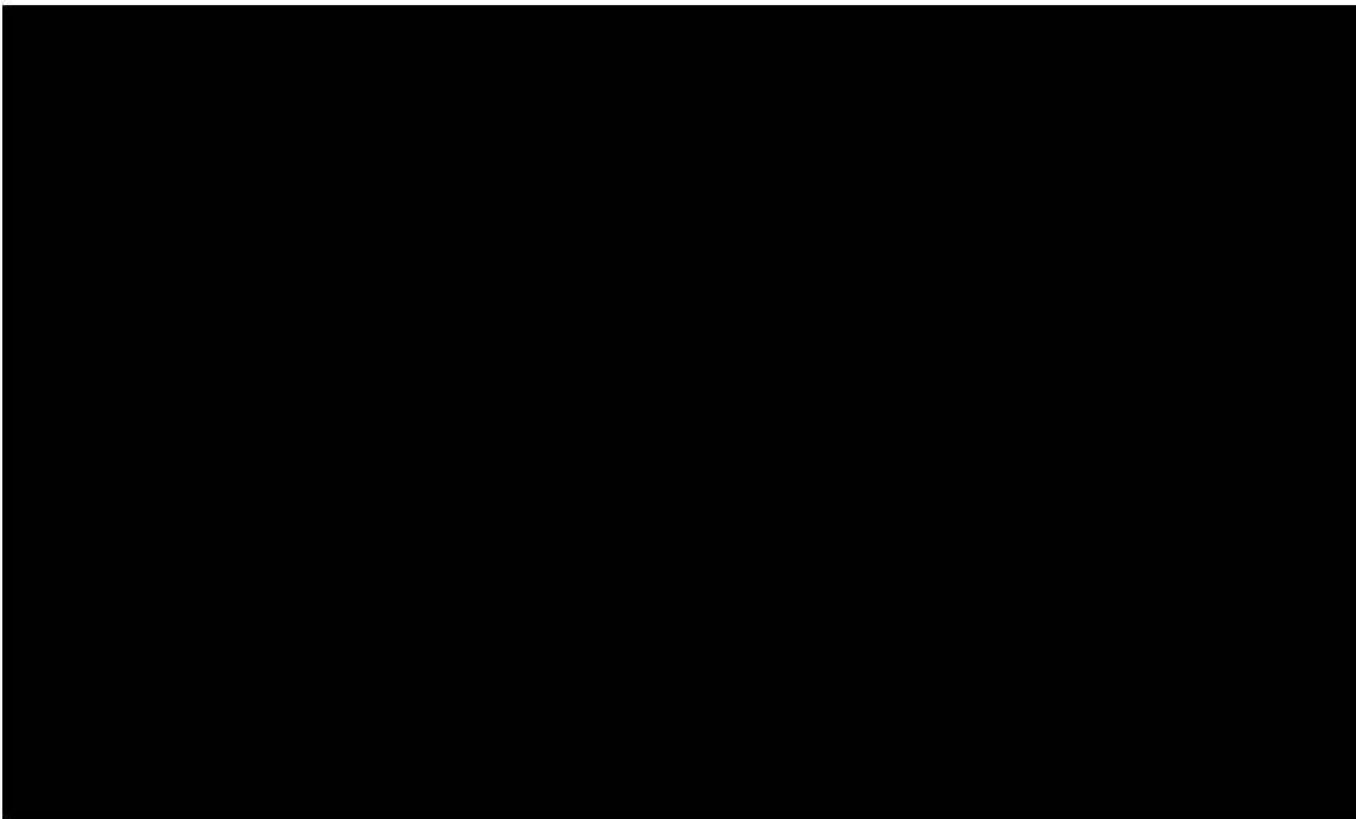
**REFERENCES**

AR 190-8 Enemy Prisoners of War, Retained Personnel, Civilian Internees and other Detainees  
STP 19-31E1-SM Soldiers Manual MOS 31E Internment and Resettlement Specialist Skill Level 1  
STP 19-31E24-SM Manual MOS 31E Internment and Resettlement Specialist Skill 2/3/4 Soldier's Manual  
and Trainers Guide

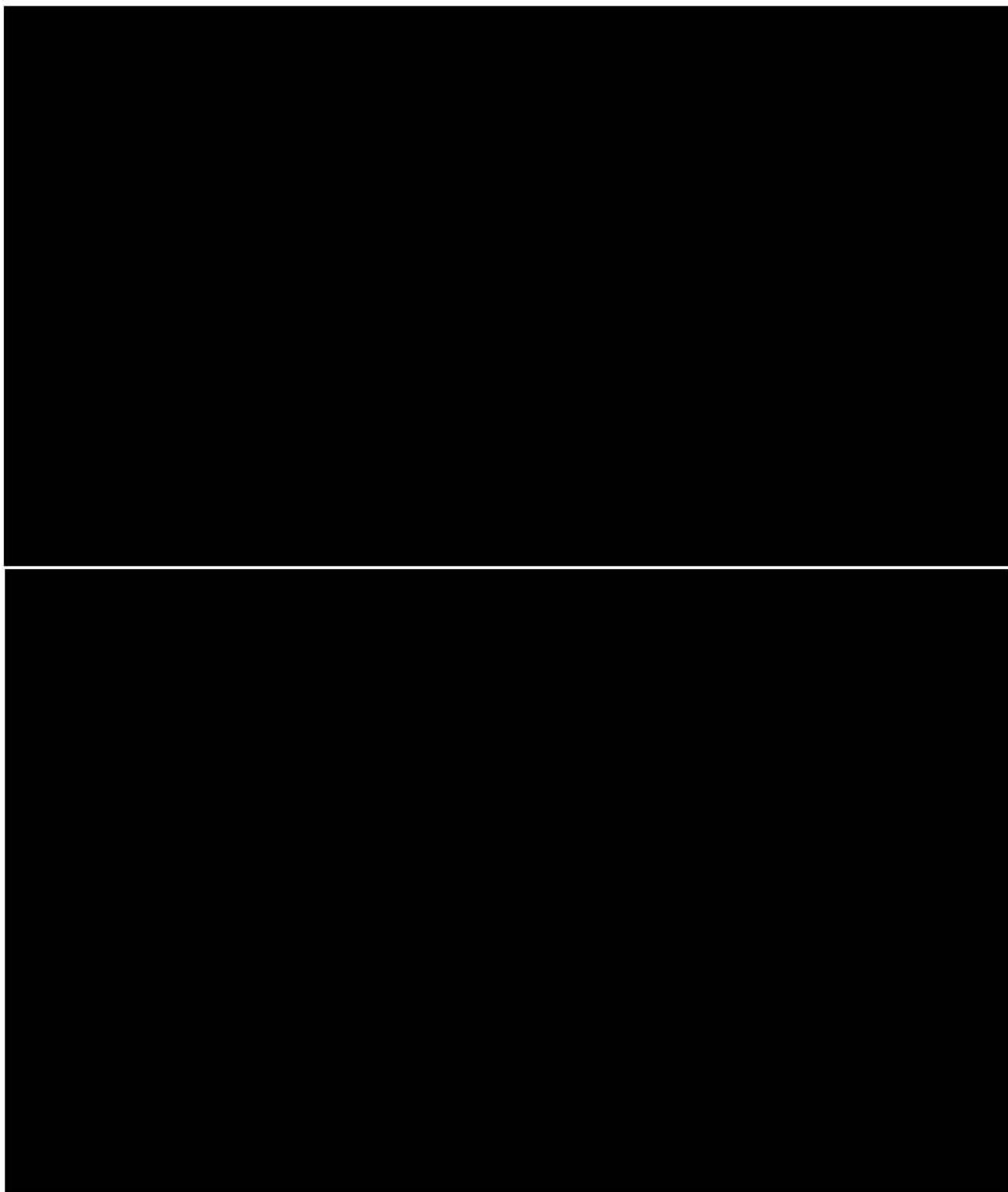
**34-1. PURPOSE.** To establish procedures for conducting searches and inspections of facilities, staff members and detainees. To determine and ensure the security and good order and discipline of all Camps within the operational control of the Joint Detention Group (JDG). To locate and control contraband and provide for its disposition.

**34-2. APPLICABILITY.** This Standard Operating Procedure (SOP) applies to all assigned, attached, or operationally controlled personnel working for the Joint Detention Group. It also applies to all items, places, facilities and areas under the jurisdiction or operational control of the Commander, Joint Detention Group (JDG) in support of Joint Task Force, Guantanamo Bay, Cuba.

**34-3. GENERAL.**



JDG PROCEDURE #34  
SEARCH AND INSPECTION  
15 MAY 2013

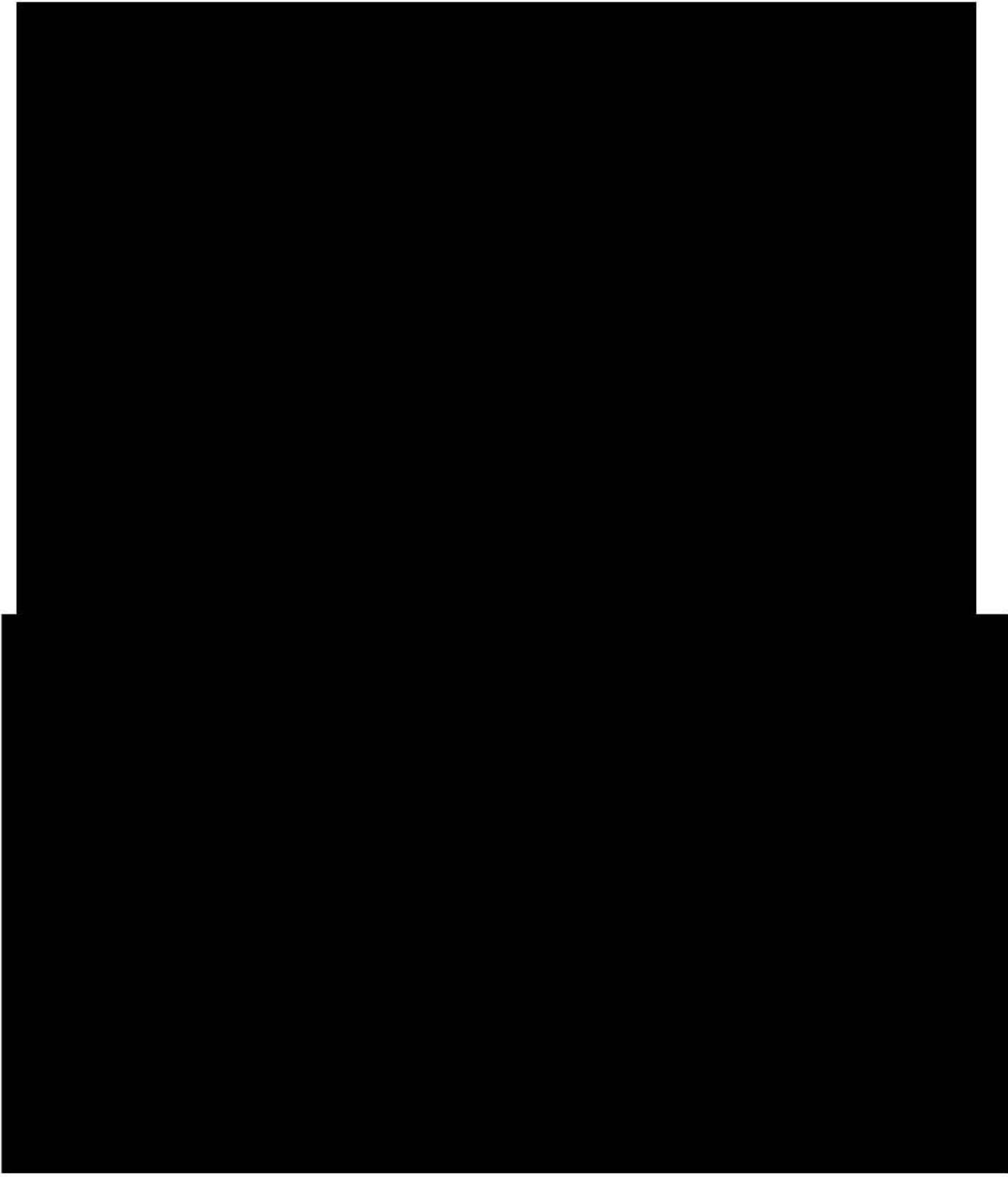


JDG PROCEDURE #34  
SEARCH AND INSPECTION  
15 MAY 2013



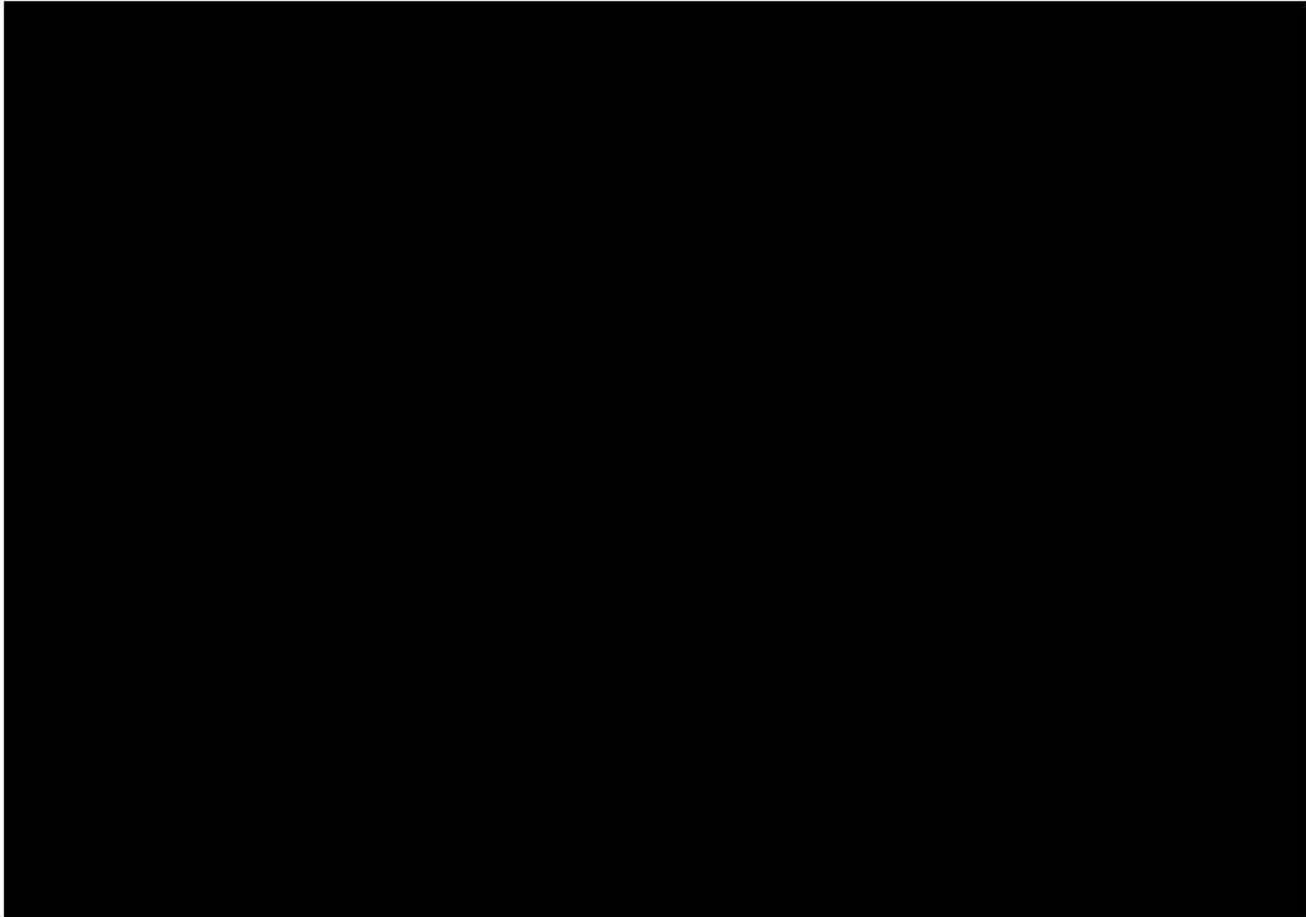
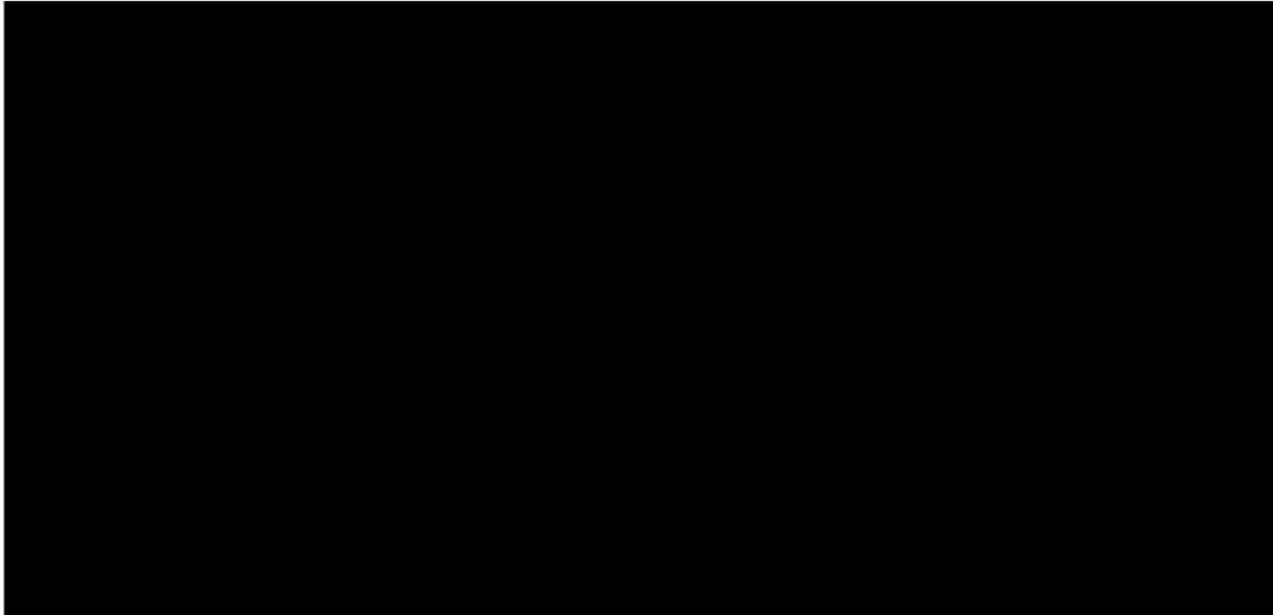
34-3

JDG PROCEDURE #34  
SEARCH AND INSPECTION  
15 MAY 2013

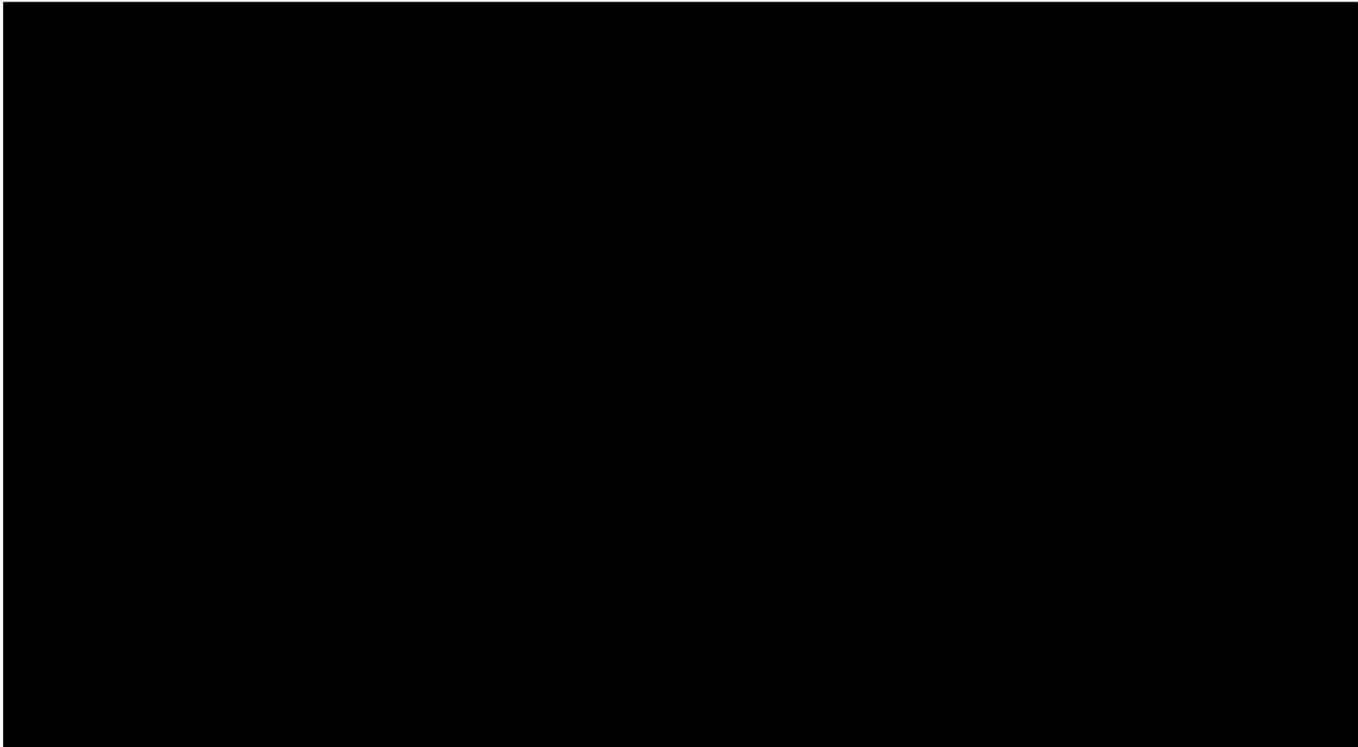
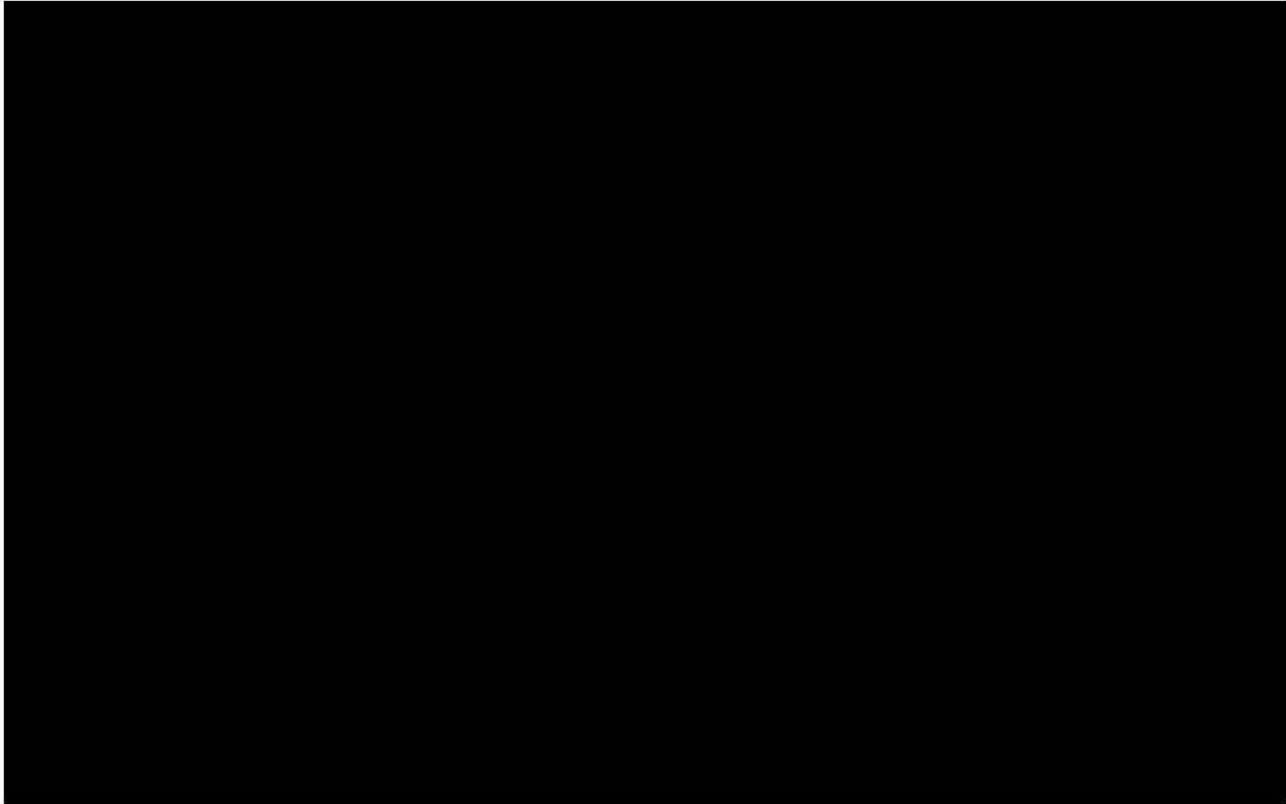


34-4

JDG PROCEDURE #34  
SEARCH AND INSPECTION  
15 MAY 2013



JDG PROCEDURE #34  
SEARCH AND INSPECTION  
15 MAY 2013



JDG PROCEDURE #34  
SEARCH AND INSPECTION  
15 MAY 2013

f. Common areas include (but are not limited to):



JOHN V. BOGDAN  
COL, MP  
Commanding

JDG PROCEDURE #41  
DETAINEE MAIL HANDLING  
25 APRIL 2013

**REFERENCE**

Executive Order 12958  
DoD Regulation 5200.1-R  
AI 26  
OSD Information and Security Supplement to DoD Regulation  
5200.1R.

**41-1. PURPOSE.** To establish procedures for handling detainee mail within the Joint Detention Group (JDG) areas of operation.

**41-2. APPLICABILITY.** This Standard Operating Procedure (SOP) applies to all assigned, attached, or operationally controlled personnel working for the Joint Detention Group (JDG) in support of Joint Task Force Guantanamo, Guantanamo Bay, Cuba.

**41-3. DEFINITIONS.**

a. ICRC Mail: Mail written in the presence of an ICRC representative, handled through the ICRC, and/or delivered by ICRC representatives.

b. Legal Mail: Mail from a lawyer, court, or other legal representative and bearing the stamp of the Privilege Review Team or SJA's Office, indicating that it is in fact designated as legal mail.

c. Non-Legal Mail: All correspondence, documents or similar materials, including but not limited to letters from persons other than counsel, letters from counsel not related to a detainees legal representation, letters from family and friends of the detainee, books, magazines, newspapers, non-governmental organization publications and reports and similar materials that are not designated as legal mail and which are sent through the U.S. Postal service.

d. Incoming: Mail sent from an outside party to a detainee.

e. Outgoing: Mail a detainee writes to an outside party.

f. Fan Mail: These include general letters of support or sympathy from persons or organizations who do not have an attorney-client, family or friend relationship with the detainee. Examples include holiday post cards and form letters.

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**41-4. GENERAL.**

a. The JDG S2 shall designate Mail Clerks who will visit the camp to pick up and drop off detainee mail. Mail clerks will check in with Block NCOs who will log them int [REDACTED] upon arrival to and departure from the block.

b. Block NCOs will provide escorts for Mail Clerks, except in Camp 5 and Camp Echo. Habeas Escorts assigned to the Staff Judge Advocate (SJA)'s office shall act as Legal Mail Clerks.

c. Block Guards will not receive out-going mail or deliver incoming mail. If there is an issue with mail of a detainee, the Block NCO will contact the Detainee Mail Processing Center (DMPC) to come to the block. If there is a problem with legal mail, the Block NCO will contact the SJA's office.

d. All incoming mail, cleared for a detainee, will be delivered to the detainee when the Mail Clerk visits the block during normal rotation only.

e. If a detainee is not in his cell during delivery, the Mail Clerk will hold the mail until the next delivery.

f. If at any time during collection or delivery, the Mail Clerk deems the block too hostile, he or she may end collection or delivery for that block.

g. For compliant detainees, there is no limit to the amount of mail allowed to be kept inside their cells. Detainees who are on a disciplinary status may request a pen and paper, one sheet at a time, to write legal mail. The detainee shall keep the finished sheets until all pages of the correspondence are completed. Once the detainee has completed the letter, he will notify the guard force that he has legal mail ready for pick-up by the Legal Mail Clerks.

h. All detainee mail (legal and non-legal) will accompany the detainee during a Detainee Movement Operation (DMO). JDG S2 will screen all non-legal mail prior to the DMO [REDACTED]  
[REDACTED] No detainee mail will be left behind after the detainee has been transferred. Detainees will not have the option of leaving legal or non-legal mail behind.

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i. If a guard discovers non-legal mail that has been cleared by JTF-GTMO mixed in with the legal mail, move the non-legal mail to the detainee's non-legal mail container. If a guard discovers documents in legal mail that are not legal or cleared non-legal mail, leave the items in the mail container, prepare [REDACTED] entry [REDACTED] and contact SJA. Detainee legal mail will not to be confiscated without the approval from either the Deputy SJA [REDACTED] the SJA Litigation Support Operations OI [REDACTED] or the CJDG.

**41-5. PROCEDURES.**

a. Outgoing mail:

(1) Collected by Mail Clerks designated by the Detainee Mail Processing Center (DMPC) per the mail collection schedule. This schedule rotates collection between blocks and between types of outgoing mail. Detainees may write post cards (6" x 4" in size) and letters (single side of one piece of paper not larger than 8.5" x 11"); DA Form 2668-R and DA Form 2667-R will be annotated. There is no limit to the amount of mail a detainee may send.

(2) If there is a situation involving a security risk and the block is closed down for that specific time, the Mail Clerks will be informed and the affected block will be skipped for that rotation.

(3) If the detainee rips or shreds his mail for any reason, the pieces of mail must be retained and handled as contraband. The guard force will complete a modified DA 2823. The contraband will be delivered to the JOC for tracking purposes and AST will pick up and process the pieces of mail accordingly. See Section 41-91 below for guidance on handling ripped or shredded legal mail.

(4) Compliant detainees are authorized to write as many letters as they want utilizing the authorized detainee mail form. The letters will be picked up on the designated mail day by the mail clerk.

(5) Mail addressed to the JTF Staff, (i.e JDG Commander), will not be submitted [REDACTED] as contraband.

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Submit [REDACTED] A DA Form 4137 shall be submitted with all detainee mail addressed to JTF Staff and immediately forwarded to the JOC.

b. ICRC Mail.

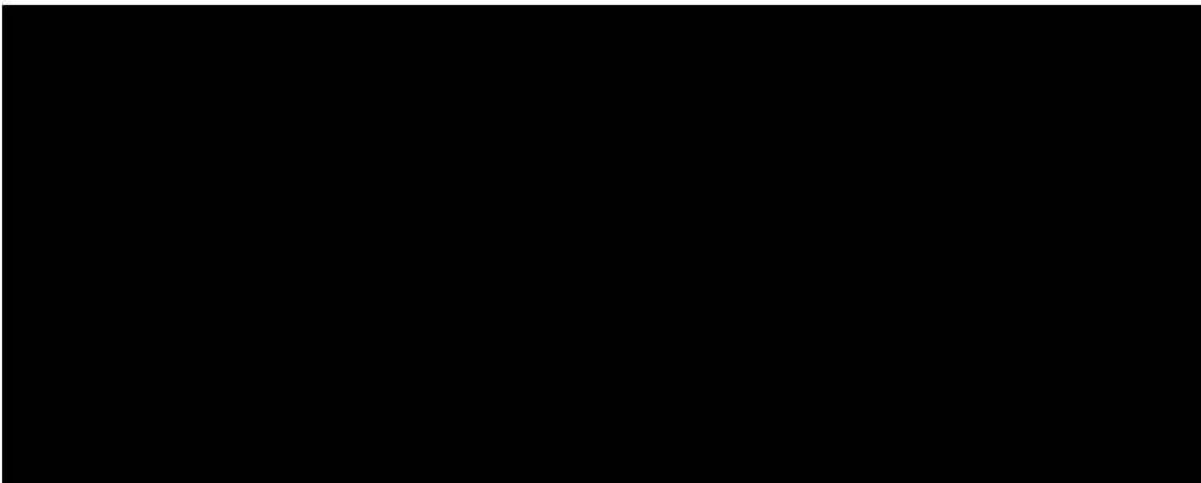
(1) ICRC mail is collected from a detainee by a representative of the ICRC, and then transferred to the DMPC.

(2) Original ICRC messages are returned to the ICRC representative after being screened, unless the mail is being held for a specific reason following screening. The ICRC messages must be logged as transferred to ICRC on the day they are transferred to the ICRC liaison.

(3) All requests for ICRC mail will be directed to the ICRC representatives only. At no time will the Mail Clerks deliver or receive original ICRC incoming or outgoing messages.

(4) Incoming ICRC mail will be returned to the ICRC representative for delivery to the detainees. Outgoing ICRC mail will be delivered to the ICRC representatives for delivery at ICRC's expense.

c. Cleared Mail (DMPC).



d. Fan Mail. Fan mail is collected as part of standard incoming mail procedures. During the review of incoming mail, the pieces from persons or organizations not having an attorney-client, family, or friend relationship with the detainee will be

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separated from the incoming mail. [REDACTED]  
[REDACTED]

**41-6. REQUESTS FOR INFORMATION AND DETAINEE REQUESTS.**

a. Detainees may request another copy of a letter or picture if the first copy was lost, ruined or worn out. The detainee must make these requests to the Mail Clerks during normal block rotation for pickup and delivery. [REDACTED]  
[REDACTED]

b. Detainees may request an extra envelope to store mail in. The envelope must be marked in such a way that it cannot be used again to send mail out. Mail clerks will write the partial Internment Serial Number (ISN) of the detainee on the envelope and draw a line through the space provided on the envelope where an address would be written.

c. A detainee who wishes to have the address for the Habeas Court or the Office of Military Commissions Defense, or an address for their particular military or civilian counsel (if they have lost or do not have access to same), may submit such a request to the SJA's office via Camp Staff.

**41-7. FOREIGN DELEGATIONS.**

a. Periodically, Foreign Delegations will visit detainees. A representative of the Foreign Delegation must notify the JDG S-2 and DMPC if they have correspondence for a detainee or vice versa.

b. Correspondence from a Foreign Delegation to a detainee or from a detainee to a Foreign Delegation must be vetted using the same processes as non-legal mail, unless given authorization from the JDG S-2 to assign the correspondence [REDACTED]  
than non-legal mail.

c. Cleared Correspondence [REDACTED]  
[REDACTED]

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[REDACTED]

e. Held Correspondence. The Foreign Delegation will be notified the correspondence cannot be delivered to the detainee and the original correspondence is returned to the Foreign Delegation.

f. Mail for detainees on a disciplinary status will be handled per the most current approved discipline matrix. Mail delivery and collection will be regularly conducted.

**41-8. DETAINEES PASSING MAIL BETWEEN CELLS.**

a. At no time should anyone from the DMPC, Block Guards, etc., pass mail or any other items from one detainee to another.

b. If detainees are passing, attempting to pass or requesting to pass items amongst each other, this action will be documented [REDACTED] and forwarded to the JDG S-2 shop including, if possible, the detainees involved and the type of item being passed.

c. At no time should ICRC Representatives pass any mail or any other items between detainees without approval of CJDG.

**41-9. LEGAL MAIL.**

a. **Only** detainees having legal representation can write or receive legal mail. Detainees shall inform guard force that they have legal mail for pi [REDACTED] force will submit a request to the SJA's offic [REDACTED] SJA will dispatch Legal Mail Clerk(s) to pick up the mail as soon as possible after the request is receive [REDACTED]

b. The SJA Legal Mail Clerks will have the Mail Pick-Up and Mail Delivery Logs in their possession.

c. The SJA Legal Mail Clerks will pick up legal mail from camps Echo, 5, and 6 everyday, Monday through Friday beginning at 1400.

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d. SJA Legal Mail Clerks will visit Camp Iguana only if a request to do so has been submitted.

e. The SJA Legal Mail Clerks will visit each block in the camps.

f. For delivery of legal mail, guard force will arrange for the detainee to come to their cell door where the Legal Mail Clerk shall hand any mail for delivery to the detainee unopened.

g. For pick-up of legal mail, the guard force will arrange for the detainee to come to their cell door with their letter and (to the extent possible in view of the realities of camp operations) the detainee should seal the envelope in the presence of the escort and the Block Guard/NCO.

h. The legal mail envelope submitted by the detainee must, at minimum, have written upon it the name of the detainee's attorney printed on the envelope.

i. In order for items to be considered Legal Mail, they must have been stamped approved for retention as legal mail by either a Privilege Team (habeas and commissions) or the SJA's office (commissions only, until creation of a commissions privilege team). For further information and guidance on incoming legal mail, see Section 41-10 below.

j. In the event of either pick-up or delivery of mail, the guard force will print his or her initial the Mail Delivery and/or Pick-up Log provided by the Legal Mail Clerks.

**41-10. Delivery of Legal Mail to GTMO.**

a. Habeas counsel will send incoming legal mail for a detainee to the privilege team at the appropriate address provided by government counsel. Office of Military Commissions (OMC) counsel shall send incoming legal mail to the appropriate address provided by government counsel. Each envelope or mailer will be labeled with the name and ISN number of the detainee and will include a return address for counsel sending the materials.

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The outside of the envelope or mailer for incoming legal mail will be labeled clearly with the following annotation:  
"Attorney-Detainee Privileged Materials-For Mail Delivery to Detainee."

b. Each page of legal mail shall be labeled "Attorney-Detainee Privileged Materials." No staples, paper clips or any non-paper items shall be included with the documents.

c. Within two (2) business days of receipt of habeas legal mail from the privilege team, the SJA at GTMO will deliver the [REDACTED] to the detainee without opening the envelope or mailer. Pending the implementation of a Privilege Team in the military commissions, within two (2) business days of receipt of OMC legal mail, the SJA at GTMO will deliver the envelope or mailer [REDACTED] to the detainee after having been opened and re-sealed before an OMC-D representative for security screening purposes.

d. Written correspondence from counsel to a detainee not falling within the definition of legal mail shall be sent as non-legal mail through the United States Postal Service to the appropriate address provided by government counsel for either habeas or commissions.

e. Counsel is required to treat all information [REDACTED] from a detainee, including any oral and written communications with a detainee, as classified information, unless and until the information is submitted to the Privilege Team and determined to be otherwise by the Privilege Team or by any court. Accordingly, if a counsel's correspondence contains any summary or recitation of or reference to a communication with a detainee that has not been previously determined to be unclassified, the correspondence shall be prepared, marked, transported and handled as classified material as required by Executive Order 12958, DoD Regulation 5200.1-R and AI 26, OSD Information and Security Supplement to DoD Regulation 5200.1R.

f. Written and oral communications with a detainee, including all incoming legal mail, will not include information relating [REDACTED]

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[REDACTED] not directly related to counsel's representation of that detainee; or

[REDACTED] the status of other detainees.

g. In spite of the foregoing, counsel may submit items of incoming legal mail for review by the Privilege Review Team's On-Island Presence in connection with procedures set forth in a Separate Memorandum executed by the JTF Commander. For further guidance as to the meaning of this provision, contact the SJA's Office [REDACTED].

**41-11. MAIL SENT BY DETAINEE TO COUNSEL (OUTGOING MAIL) .**

a. Detainees will be provided with paper to prepare communications to counsel. In the presence of military personnel, the detainee will place the written communication into an envelope and it will be annotated as "Attorney-Detainee Privileged Materials-For Mail Delivery To Counsel." Each envelope shall be labeled with the name of the detainee and the name of counsel. Envelopes annotated with the name of persons other the detainee's counsel (including family/friends or other attorneys) will be processed according to the standard operating procedures for detainee non-legal mail.

b. The SJA Legal Mail Clerks will collect the outgoing legal mail within one (1) business day of the SJA's Office being notified by guard force.

c. After the outgoing legal mail is collected from the detainee, the envelope will be sealed and placed into a larger envelope by the SJA's Legal Mail Clerks. The envelopes will be marked as "Attorney-Detainee Privileged Materials-For Mail Delivery To Counsel" and will be annotated with the name of the detainee and the counsel. The mail will then be provided by the Legal Mail Clerks to the SJA Mail Clerk, who will in turn provide it to the on-island Privilege Team or OMC-D representative (pending implementation of a Privilege Team for the Military Commissions) no later than the end of the next business day after receiving it from the Legal Mail Clerks.

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d. Attorneys are responsible for gathering all written materials produced during attorney-detainee meetings and processing them as legal mail or non-legal mail in accordance with a Memorandum executed by the JTF Commander governing such procedures. Any violations shall be reported immediately to the JOC OIC and the SJA's office [REDACTED]

e. Detainees are also permitted to send non-legal mail, including written communications to persons other than counsel, through the United States Postal Service. IF THERE IS ANY QUESTION AS TO WHETHER AN ITEM IS LEGAL OR NON-LEGAL MAIL, PLEASE CONTACT THE SJA'S OFFIC [REDACTED] IMMEDIATELY.

f. Any items leaving an attorney-detainee meeting that the attorney does not claim privilege over shall be turned over to SJA personnel and they in turn will pass such information to J-2 for screening as outgoing non-legal mail.

**41-12. DELIVERY OF NON-LEGAL MAIL TO DETAINEES FROM COUNSEL.**

a. Per Paragraph D 12E, in the Amended Protective Order governing the habeas cases, "Procedures for Correspondence Between Counsel and Detainees" written correspondence to a detainee not falling within the definition of legal mail shall be sent through the United States Postal Service" for screening by military personnel.

b. Detainees are not permitted to receive gifts, religious materials, recreational items, medical supplies, clothing, hygiene items/toiletries, food or any other items from outside the military supply system unless a specific exemption is granted by the CJDG. This prohibition includes all such items from counsel.

c. Counsel will not send any items referenced in the section above through the procedure for non-legal mail. Any item sent by counsel will not be processed and instead will be disposed of in a manner deemed appropriate by the SJA. Counsel may not provide any non-legal mail items to detainees during a visit. All non-legal mail materials must be delivered to GTMO through the United States Postal Service.

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**41-13 Storage and Searching of Legal Mail Within Cells**

a. Detainees are allowed to keep legal mail within a bin located in their cells specially marked for the storage of legal mail. The bin may be searched by the guard force as a part of a routine cell search of the detainee's block; however, the search is limited to (a) examining the bin for any physical contraband (weapons, etc.), and (b) cursory scanning inside of mail envelopes for contraband contained therein. **(NOTE: At NO time will ANY document be removed from the legal bin without approval as indicated in paragraph d below)**. Other than the routine search authorized, the legal mail bin will not be searched unless such a search is specifically authorized by the CJDG in consultation with the SJA or Deputy SJA.

b. For detainees on disciplinary status, the legal mail bin shall be considered Basic Issue Comfort Items (BICI) and will be kept inside the cell.

c. During ANY Search of a legal mail bin as described, if the guard force is unclear about procedures or whether particular items are or are not legal mail or contraband, they will contact the office of the SJA a [REDACTED] immediately.

d. Detainee legal mail will not to [REDACTED] without the approval from either the Deputy SJ [REDACTED] the SJA Litigation Support Operations OI [REDACTED] or the CJDG.

[REDACTED]

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