



DEPARTMENT OF DEFENSE
OFFICE OF THE CHIEF DEFENSE COUNSEL
OFFICE OF MILITARY COMMISSIONS

3 March 2008

From: LCDR William Kuebler
To: Office of the Convening Authority

Subj: *UNITED STATES V. KHADR* - REQUEST FOR APPOINTMENT OF EXPERT
CONSULTANT TO THE DEFENSE TEAM FOR OMAR KHADR

Encl: (1) Curriculum Vitae of Thomas Quiggin

1. I request Mr. Thomas Quiggin be employed as part of the Khadr defense team in the role of an expert consultant in the area of al Qaeda and terrorism intelligence. Enclosure (1) documents Mr. Quiggin's experience relating these areas.

2. As your office is aware, my client is being held at Guantanamo Bay following his capture for alleged misconduct occurring in 2002. He is alleged to have conspired with senior members of al Qaeda to attack civilians, attack civilian objects, commit murder in violation of the law of war, destroy property in violation of the law of war, and commit terrorism. *See Charge Sheet, Charge III.* He is also alleged to have committed murder, attempted murder, spying, and to have provided material support for terrorism, pursuant to the alleged conspiracy. *See Charge Sheet.* The government has produced nearly 14,000 pages of documents and 80 videos and 6 audio files in the block of discovery it calls "al Qaeda 101". In addition to this, there are dozens of reports of investigative activity and other interview summaries containing information relating to al Qaeda, its alleged members, and its alleged activities.

3. This discovery requires the defense team to have a complete understanding of al Qaeda and terrorism intelligence. To fully understand the structure and activities of al Qaeda, a great deal of insight into politics, history, economics, technology, social and cultural issues and other fields is required. And to adequately analyze and respond to the government's "al Qaeda 101" evidence and other evidence relating to al Qaeda, the Defense must examine the complex multi-disciplinary field of government and privatized intelligence. This includes understanding intelligence as a form of knowledge, as a form of activity, and as a form of organization. The ability to understand the theoretical capabilities and limitations of intelligence will be required to interpret the validity of the "al Qaeda 101" material that the government intends to present as "evidence." This includes the capability to assess products from the various intelligence disciplines such as SIGINT, HUMINT, IMINT, etc., especially as they relate to "new terrorism". While the defense has attempted to educate itself in these subject areas, it cannot obtain Mr. Quiggin's level of expertise, particularly in the two-months that exist before trial is scheduled to begin. Without assistance in bringing together information about the fields of intelligence and terrorism and in analyzing that information, the Defense cannot understand and respond to much of the information at issue in this case.

4. Mr. Quiggin will assist the Defense in analyzing discovery relating to al Qaeda, analyzing government motions to admit evidence relating to al Qaeda before trial, identifying and

4. Mr. Quiggin will assist the Defense in analyzing discovery relating to al Qaeda, analyzing government motions to admit evidence relating to al Qaeda before trial, identifying and preparing expert witnesses, and preparing cross-examination of experts the prosecution may use in addressing these areas. Mr. Quiggin will also help the defense to understand the structure and activities al Qaeda, including how it was structured prior to the fall of 2001 and how that structure changed after the U.S. invasion of Afghanistan in October 2001 (issues bearing on the issues raised by Charge III); understanding terminology and how to establish their meaning within the context of how the terms were used (for example, people often use words such as "jihad" and "bayat" without understanding the multiple meanings of the words and what their contextual meaning is, which could result in unreliable intelligence); and how the intelligence process works to obtain information relating to al Qaeda and terrorism intelligence, the strengths and weaknesses of the process and how the process may produce unreliable information. The knowledge gained by having the assistance of this consultant will allow the defense to properly identify and investigate relevant issues and prepare for the defense of Mr. Khadr at trial. The Defense simply cannot provide competent representation without the assistance of an expert consultant, such as Mr. Quiggin. Thus, Mr. Quiggin's assistance is relevant and necessary. *See* Regulation for Trial by Military Commission 2-3.a(10) ("The convening authority shall . . . employ those experts requested by a party and found by the convening authority to be relevant and necessary."). Therefore, the Defense requests that Mr. Quiggin be hired as expert consultant for the Defense team with complete access to all information possessed by the Defense and the privilege of confidentiality accompanying a Defense team member.

5. Mr. Quiggin holds an active level 3 security clearance granted on 3 May 2005 and issued by the Central Region Personnel Security Unit of the Royal Canadian Mounted.

6. Mr. Quiggin's fee is \$100 per hour. The Defense requests an initial authorization of 80 hours for Mr. Quiggin to review discovery and consult with the defense. After we discuss and explore in detail the relevant issues, we may seek additional hours.

7. In the event this request is denied, the Defense requests a written response articulating the reasons for the denial. Should you have any questions or require further information, please contact me at ³ [REDACTED]


WILLIAM KUEBLER
LCDR, JAGC, USN
Detailed Defense Counsel

CC: Chief Defense Counsel

Thomas A. QUIGGIN
B.A.(Hon) M.A., CD

Work Experience

July 2007 – present. Adjunct Senior Fellow, S. Rajaratnam School of International Studies, NTU, Singapore.

April 2006 to June 2007 – Senior Fellow and Program Coordinator for the Risk Assessment and Horizon Scanning Program, Centre of Excellence for National Security, Institute for Defence and Strategic Studies, Nanyang Technological University, Singapore. (Now known as the S. Rajaratnam School of International Studies).

April 2002 – March 2006 Royal Canadian Mounted Police - Integrated National Security Enforcement Team (Ottawa, A Division). Primary responsibility for research and analysis into all matters of national security, including risk analysis for terrorism, various government functions, travels, events, protests, and direct threats to national level personnel. Secondary responsibility for research and analysis into war crimes, drugs, terrorism, and other such matters as may arise that concern the Division Intelligence Officer.

November 2000 to April 2002 – Royal Canadian Mounted Police – Senior Analyst for political and military affairs (War Crimes, Immigration and Passport Fraud Section).

May 2000 to November 2000 - Senior Analyst, Case Management Branch, Modern War Crimes, Citizenship and Immigration, Canada. Responsible for case work, research, analysis and other duties related to war crimes and other security matters within the department.

January 2000 to April 2000 – Office of the Prosecutor, International War Crimes Tribunal for the former Yugoslavia. Responsible for military analysis of matters related to prosecution of major cases where military and/or political matters were involved.

February 1999 to December 1999 – Citizenship and Immigration Canada, Modern War Crimes Intelligence Section. Responsible for research and analysis in cases related to war crimes. Risk analysis assessments on various individual cases and countries. Also responsible for the production of documents used by overseas posts to screen for potential war criminals or other such security related cases.

October- November 1997 - Citizenship and Immigration Canada. Short term contract project advising on research and analysis into overseas war crimes, crimes against humanity etc.

September 1997 – OSCE Election supervisor in Bosnia (Republic Srpska - Bijeljina and area)

June 95 to August 97 - Canadian Privy Council Office - Intelligence Analyst - Primarily responsible for analysis and production of assessment material on Balkan security, political, military and economic matters. Other duties as assigned from time to time at the discretion of the director.

August 94 to May 95 - Director General of Intelligence (Department of National Defence)- Arms control analyst and verification support. Responsible for the enforcement of major arms control treaties such as the Conventional Forces in Europe Treaty, Vienna Document, and the

UN Registry on Conventional Arms. Carried out intrusive on-sight arms control inspections to detect treaty anomalies and problem areas.

February 94 to July 94 - UNPROFOR HQ Zagreb Croatia (United Nations) - Intelligence analyst. Prepared regular briefings for the Special Representative of the Secretary General (Mr Akashi), Force Commander and Deputy Force Commander and Head of Civil Affairs. Delivered formal and informal oral briefings to Force Commander and the SRSG on crisis matters. Responsible for briefings on all UN related matters (i.e. military, security, mujahideen, economic, human rights, war crimes, humanitarian aid). Liaison functions with various agencies such as UNHCR and the ICRC.

May 93 to January 93 - Director General of Intelligence - Arms control analyst. Carried out arms control inspections in Albania, Belarus, Poland, Russia and Ukraine.

January 91 to May 93 - Director General of Intelligence. Provided national level intelligence support to the Canadian UN Battalion for the reopening of Sarajevo Airport and missions in Croatia and Bosnia. Provided regular briefings to the Deputy Minister, Chief of Defence Staff, PCO and other government agencies. (August 1992 – Deployed to the National Military Joint Intelligence Center – **NMJIC** -at the Pentagon for intelligence work related to the conflict in Yugoslavia).

July 90 to January 91 - Directorate of International Policy (DND) - Responsible for a wide range of responsibilities involving the international affairs of DND. Prepared briefing books for senior staff visits to foreign countries. Prepared correspondence for the Defence Minister on Canadian involvement in various foreign operations.

1980 -1990 –served as an aero engine technician and aircrew in the Canadian Armed Forces.

Court Expert

Qualified as a court expert by Mr Justice Roydon Kealey of the Ontario Superior Court on 07 June 2005. The case in question was R v Khawaja where the accused was charged with participating in the activity of a terrorist group and facilitating terrorist activity under s. 83.18 and 83.19 of the Criminal Code.

The specific area of expertise was stated as: “Structure, organization and evolution of the global jihadi movement.”

The Department of Justice file number is 1-377960 and the court information number is 04-30282.

Court Appearances and Testimony

1. R. v. Ribich (Bosnian - hostage taking) 2002
2. R. v Momin Khawaja (Terrorism case bail hearing) - May 2004
3. R. v Momin Khawaja, Ontario Superior Court, June 2005

Selected Formal Presentations

January 8th, 2008 – Series of presentations to the US Military Commissions defence lawyers. The presentations focused on terrorism as an intelligence target and other related issues.

December 5th, 2007 – Presentation to the intelligence managers of the Canadian Border Services Agency on the structure and organization of intelligence agencies as well as future issues that will affect national security related issues.

November 14th and 15th 2007 – Canadian Border Services Agency conference of intelligence officers and analysts. Responsible for two 90-minute presentations on “Faint Signal Detection” and “Intelligence at the Front Lines.”

November 13th 2007 – Experts Meeting: Engaging Muslim Communities Abroad. Conference co-sponsored by the Canadian Department of Foreign Affairs and the UK Foreign Office. Was lead-off speaker on radicalization in Muslim communities.

November 11th 2007 – Radio interview with CHIN (Radio Islam) on youth radicalization in Canada.

October 31st 2007 – Presentation to the Privy Council Office at Meech Lake on a specific case of terrorism radicalization and how it can be used to understand radicalization in general in Canada.

October 24th 2007 – Short presentation at Royal Bank conference on money laundering and terrorist financing. Presentation was on successes by banks in money laundering.

October 23rd 2007 – Presentation to CIJA on radicalization issues and community engagement in Canada and around the world.

October 17th 2007 – Presentation to Ottawa Police on indicators of radicalization and extremism for front line police officers.

June 4th to June 8th 2007 – Presentations to various counter terrorism officials in Rotterdam, Copenhagen, Brussels, Utrecht, Den Haag and Worden. The presentations were on counter-radicalization and community engagement in counter terrorism programs.

May 28/29 2007 – Speaker, author and participant at the Swedish Defence College and the Centre for Asymmetric Threat Studies, Stockholm Sweden. The conference and its resulting book focus on research into the state of intelligence capabilities. The project is headed by Greg Treverton of Rand Corp.

May 30th 2006, Open Source Intelligence Workshop by Tom Quiggin, conducted for NSCS, NSCC, JCTC, IDA, DSTA, Ministry of Health, and ICPVTR.

July 24th 2006, Boolean Search Workshop by Tom Quiggin, “Boolean Searching and Search Engine Math”.

September 2006, “Jihadists Domination of the Internet Battle Space”, presentation at the Network Centric Warfare Asia 2006 Conference, Singapore.

November 29th 2005 - Invited as lecturer on the RCMP National Security Course to present on "The Structure, Organization and Evolution of Al Qaeda and the Global Jihadi Movement."

November 14th 2005 - Invited to give a presentation at the Canadian Police College on the "Structure, Organization and Evolution of the Global Jihadi Movement" and on "Future outlook on trends in targeting."

November 1st 2005 - Invited to give presentation to Ottawa Airport security staff on the "Structure, Organization and Evolution of the Global Jihadi Movement" and the "Emerging Threats and Trends in Canada."

March 2005 - Global Security Asia Conference and Exhibition in Singapore (26-29 March 2005). Formal conference presentation on Terrorism and Strategic Intelligence.

June 2004 - Canadian Centre for the Study of Intelligence and Security Studies - Norman Patterson School of International Affairs at Carleton University. 3-4 June 2004 - Conference on "Anticipating Strategic Surprise and Early Warning" - looked at repeated failures of strategic intelligence and why it fails - related this to current Homeland Security style in Canada and US - and why they are not likely to succeed.

April 2003 - Canadian Institute for the Administration of Justice. Presentation on open source intelligence (including satellite imagery and commercial aggregate data bases).

March 2000 - University of Toronto, Centre for International Studies. Presentation on War Crimes, Intelligence, Technology and Justice.

February 2000 - International Centre for Security Analysis, King's College London (Presentation on War Crimes, Intelligence and Technology).

June 1998 - Canadian Government Senate Committee on Security and Intelligence (The Kelly Commission). The Senate Committee was investigating the terrorist threat to Canada and various counter-terrorism activities of the Canadian government. This presentation involved future technology and intelligence issues.

October 1997 - Amsterdam, The Netherlands, State Institute for War Documentation investigation into the events at Srebrenica. (Intelligence, imagery etc.)

Courses Designed and Taught

October 11th to 14th 2005 - Designed and taught the major course content for the "Advanced National Security Course - Red Cell" which was run in conjunction with the Department of National Defence. The course had students from five different agencies in Canada responsible for CT or national security related issues.

Previous Work Experience

Earlier work not noted above included military experience in radio, radar and sonar electronic systems, electronic warfare, as well as operational work in search and rescue operations.

Publications

Books Published (Single Author)

National Security Intelligence in a Complex and Uncertain Age, Tom Quiggin, World Scientific Press, Singapore (released in February 2007).

Book Pending

Homegrown Jihadism – The Threat to the West, (Book co-authored with Rohan Gunaratna, contracted signed with Reaktion Publishers, London UK.

Book Chapters Contributed

1. *Cutting the Cord: Economic Jihad and Canadian Oil*. Edited by James J.F. Forest. Westport, CT: Praeger Security International, (Anticipated publication date: June, 2006).
2. *Open Source Intelligence Support to Investigations in a Hostile Climate*, in La voir Canadienne vers la Cours pénale internationale: tous les chemins mènent à Rome. The book was published by the Canadian Institute for the Administration of Justice in spring 2004.
3. *Intelligence and War Crimes: Some Views from Operational Experience*. This chapter was co-written with Joseph Rikhof, Special Counsel for War Crimes (CIC and DOJ) and published in the book Canada and International Humanitarian Law. Published by Centre for Foreign Policy Studies, Dalhousie University, 2002.
4. *The Role of Western European Regional Organizations in the Former Yugoslavia*. This chapter was contributed to book entitled The Changing European Security Environment - Co-edited by Susanne Peters and C. Lott. This project was organized by R. Seidelman and funded by the Volkswagen Group. Published by Jena of Germany, 1996.
5. *Peace at Last? An Analysis of the Dayton Agreement on Bosnia-Herzegovina* - This chapter formed the postscript for the above noted book by Peters and Lott. 1996.
6. *Technology for Peace: Enhancing the Effectiveness of Multinational Interventions in Operations Other Than War*. An edited volume organized by Dr Jeremiah Sullivan of the University of Illinois. Funded by the United States Institute for Peace. Personal contribution consists of a chapter on the uses of technology in UN missions and the role of information warfare.

Journal Articles Published

1. Janes/RUSI article in the Homeland Security and Resilience Monitor, "*People Power in the War on Terrorism*" (June Issue – released on Janes' website on 03 May 2006)
Norman Vasu and Tom Quiggin.
2. Janes/RUSI article in the Homeland Security and Resilience Monitor, "*Scanning the horizon for threats to Singapore*" (published date of 01 July 2006).
3. Janes/RUSI article in the Homeland Security and Resilience Monitor, "*Intelligence lessons: defeating terrorism on the front lines*," (March 2006).
4. The Royal United Services Institute Journal, Sept 2003, *Iraq - A War 14 Years in the Making*.
5. The Royal United Services Institute Journal, June 1999, *Nato's Ten Years of Muddle*.
6. The Royal United Services Institute Journal, April/May 1999, *Do Airstrikes Amount to Effective Policy?*
7. Internationale Spectator (Feb 98, No 2) Instituut Clingendael: *Srebrenica en de internationale gemeenschap in Bosnie* (Srebrenica and the International Community in Bosnia).
8. The International Security Review 1999, The Royal United Services Institute for Defence Studies: *Poets, Politicians and Propaganda in Kosovo* (Co-written with Lt Col Robert Williams of the Canadian Armed Forces.)
9. Intelligence and National Security Journal, Vol 13, No 4, Winter 1998: Response Article to *No Cloak and Dagger Required, Intelligence Support to UN Peacekeeping Missions*.

Commentary Papers

1. IDSS Commentary Article on "*Singapore's Darwinian Imperative: Survival in a Complex and Uncertain World*", Kumar Ramakrishna and Tom Quiggin, 28 April 2006.
2. IDSS Commentary Article on "*People Power in the War on Terrorism*", republished from the original Janes/RUSI piece,) Norman Vasu and Tom Quiggin, 16 May 2006.
3. IDSS Commentary Article on "*Iconic Soft Targets? Public Housing Estates, Terrorism and Social Resilience*", Kumar Ramakrishna, Norman Vasu and Tom Quiggin, 24 May 2006.
4. IDSS Commentary Article on "*Israel's Response: A Strategic Misstep with Global Implications?*", Kumar Ramakrishna, Tom Quiggin and Hoo Tiang Boon, 24 July 2006.
5. IDSS Commentary Article on "Contemporary Terrorism and Intelligence", Sir Richard Dearlove and Tom Quiggin, 7 August 2006.
6. IDSS Commentary Article on "Time for a Different Approach in the War on Terrorism?", Tom Quiggin, 15 August 2006.
7. IDSS Commentary Article on "It Sure is Dark in Those Classified Caves, Open Source Intelligence for National Security", Tom Quiggin, 27 September 2006.
8. IDSS Commentary Article, *Networked Cooperation and Diversity for the Future*, Tom Quiggin, November 2006.
9. RSIS Commentary *The Tyranny of the Tactical*, co-authored with Sir Richard Dearlove, February 2007.
10. RSIS Commentary *Faint Signals and a New Form of Jihadism: Host Community-Supported Jihadism*, co-authored with Arabinda Acharya, June 2007.
11. RSIS Commentary *What if Iran is Attacked?*, co-authored with Arabinda Acharya, March 2007.

Selected Newspaper Articles

1. Straits Times Article on "*Singapore's Darwinian Imperative: Survival In A Complex And Uncertain World*" (28 April 2006) Kumar Ramakrishna and Tom Quiggin .
2. Straits Times Article, "*Surviving in an uncertain world*", (29th April 2006) Kumar Ramakrishna and Tom Quiggin.
3. Commentary Article on "*People Power in the War on Terrorism*", republished from the original Janes/RUSI piece, (16 May 2006) Norman Vasu and Tom Quiggin.
4. Straits Times Article: "*Allies can help US restore its global influence*" Tom Quiggin and Norman Vasu.
5. Commentary Article on "*Iconic Soft Targets? Public Housing Estates, Terrorism and Social Resilience*" 24 May 2006. (Kumar Ramakrishna, Norman Vasu and Tom Quiggin).
6. Straits Times Article, "*Blessed are the peace keepers?*" August 2006.
7. Straits Times Article: "*Politics, not religion, at core of jihadist movement*" (Kumar Ramakrishna, Norman Vasu and Tom Quiggin).
8. Ottawa Citizen Op-Ed" "*Stopping the next terror plot*" June 05, 2006.
9. National Post Article, "*How Jihad Starts*", Tuesday, 06 June 2006.
10. Ottawa Citizen Op-Ed, "*Winning means taking the moral high ground,*" co-authored with Amitav Acharya.
11. Straits Times Article, "*Escaping the Tyranny of the Tactical*", co-authored with Sir Richard Dearlove, February 2007.
12. Straits Times Article, "*Winning the battle but losing the war*" August 14th 2006.

Government Publications

1. The Canadian Security Intelligence Service, Commentary Number 75, Summer 1998: *Exploiting the New High Resolution Satellite Imagery: Darwinian Imperatives?* (Co-written with Mark Stout of the US State Department - INR).

Book Reviews

1. Book review for *Contemporary South East Asia*, the journal of the Singapore Institute of South East Asian Studies. The book reviewed was "*Cooperating for Peace*", by Australian Foreign Minister Gareth Evans. Published in April 1996.
2. Book Review for *The Journal of European Integration*. The book reviewed was *Disconcerted Europe - The Search for a New Security Architecture*, edited by Alexander Moens and Christopher Anstis, Westview Press, 1994.

Miscellaneous

Tom Quiggin and Norman Vasu, Channel News Asia Interview aired on *Insights: The Enemy Within*, 19 July 2006.

Tom Quiggin, Channel News Asia interview on their Prime Time News on 12 August 2006 at 9 pm (Interview was quoted as text in Channel News Asia article: Augustine Anthuvan, "Analysis: Is

Britain's War on Terror Succeeding?", 14 August 2006).

Tom Quiggin and Norman Vasu, email interview quoted in "Living in the Shadow of 9/11: 5 Years On", Straits Times Article by Zakir Hussain, 9 September 2006.

Tom Quiggin, email interview quoted in "Civil Society Groups' Quest for Change Dogged by Violence", Straits Times Article by Lynn Lee, 12 September 2006.

Education

MA - York University, Toronto, Canada (89/90) (International Relations)
BA (Honours) - Saint Mary's, Halifax, Canada (86/89) (Politics and History)

Scholarships and Awards (Academic)

William J. Dalton Scholarship - Saint Mary's University 1987/88
Dean's Honour List - Saint Mary's University - 1988
Edwin and Edith Christian Endowment Trust Scholarship - 1988/89
Dean's Honour List - Saint Mary's University 1989
William J. Dalton Scholarship - Saint Mary's University 1988/89
John Gellner Scholarship - 1989/1990

Countries Visited or Employed

Albania, Austria, Barbados, Belarus, Belgium, Bermuda, Bosnia (also the "Republic Srpska"), Cayman Islands, Columbia, Costa Rica, Croatia (also the "Republic of the Serb Krajina), Czech Republic, Denmark, France, Germany, Hungary, Iceland, Indonesia, Italy, Japan, Malaysia, Mexico, Netherlands, Netherlands Antilles, Poland, Russia, Serbia (FRY), Singapore, Slovenia, Spain, Sweden, Thailand, Ukraine, United Kingdom, United States.



OFFICE OF THE SECRETARY OF DEFENSE
 OFFICE OF MILITARY COMMISSIONS
 1600 DEFENSE PENTAGON
 WASHINGTON, DC 20301-1600

MAR 11 2008

CONVENING AUTHORITY

MEMORANDUM FOR LCDR William Kuebler, Detailed Defense Counsel for
 Omar Ahmed Khadr

SUBJECT: *U.S. v. Khadr*: Response to Request for Confidential Expert Consultant

I have received your 3 Mar 08 request to employ Thomas Quiggin as a confidential expert consultant. I need more information before I can consider it for approval.

Consistent with previous Military Commissions cases and as set forth in *United States v. Bresnahan*, 62 M.J. 137 (C.A.A.F. 2005), I consider the following analysis appropriate in construing and applying Rule for Military Commission 703(d):

An accused is entitled to an expert's assistance before trial to aid in the preparation of his defense upon a demonstration of necessity. But necessity requires more than the "mere possibility of assistance from the requested expert" The accused must show that a reasonable probability exists "both that an expert would be of assistance to the defense and that denial of an expert would result in a fundamentally unfair trial."

We apply a three-part test to determine whether expert assistance is necessary. The defense must show: (1) why the expert assistance is needed; (2) what the expert assistance would accomplish for the accused; and (3) why the defense counsel were unable to gather and present the evidence that the expert assistance would be able to develop. A military judge's ruling on a request for expert assistance will not be overturned absent an abuse of discretion.

Id. at 143 (quoting *United States v. Robinson*, 39 M.J. 88, 89 (C.M.A. 1994)). In particular, the following information would be helpful in evaluating your request:

- A. What have you done to educate yourself in the requested area of expertise? What treatises have you examined?
- B. What experts and government employees having knowledge in this area have you interviewed?
- C. What do you need to learn that you still do not understand in order to defend the accused in this case?
- D. Are there experts other than the one you requested who would meet your needs? Have you talked to them? Would providing a government employee as an expert consultant meet your needs?

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E. What is the nature of any confidential communication you wish to protect? What need, if any, would there be for your client and the expert to talk with each other?

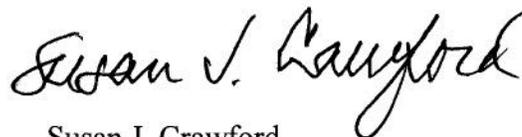
Paragraph 2 of the request states you need an expert on al Qaeda to assist you in understanding 14,000 pages of discovery, 80 videos, 6 audio files, "dozens of reports of investigative activity" and "other interview summaries." Consistent with *Bresnahan*, your request should contain each step you undertook to understand this information prior to requesting Mr. Quiggin. The request notes that the defense only has two months to prepare itself for trial. In determining whether the defense has adequately attempted to understand the material before requesting an expert, please provide the dates that the defense received the discovery in question.

Paragraph 3 of your request states you need an expert in the field of intelligence, yet there is no discussion of how the expert will help in this case. Nor have you explained the relevance of your request for an expert in intelligence gathering techniques. The request does not explain the relevancy of terms such as "the multidisciplinary field of government and privatized intelligence," "intelligence as a form of knowledge, a form of activity, and as a form of organization," "the theoretical capabilities and limitations of intelligence," and "SIGINT, HUMINT, IMINT" to the case against the accused. The request cites "new terrorism" but does not explain what that means. The request alleges that "the defense has attempted to educate itself in these subject areas," but fails to articulate any steps taken.

Paragraph 4 states the defense needs expert assistance to understand "how [al Qaeda] was structured prior to the fall of 2001 and how that structure changed after the U.S. invasion of Afghanistan in October 2001." There is no explanation of the relevance of these dates in light of Charge III, which alleges the accused entered into a conspiracy with al Qaeda members from 1 June 2002 to his capture on 27 July 2002, and that all alleged overt acts occurred in this timeframe. Additionally, the request does not address what steps the defense has taken to educate itself on al Qaeda, "terminology" as described by your request, and "the [intelligence] process and how the process may produce unreliable information."

The request states that Mr. Quiggin holds "an active level 3 security clearance granted on 3 May 2005." The request does not discuss whether his security clearance is necessary to understanding the issues in the case or adequate to review all information within the possession of the defense.

As always, I encourage you to continue to pursue your request and to follow up with any concerns.



Susan J. Crawford
Convening Authority
for Military Commissions



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10:29 MECCA TIME, 7:29 GMT



NEWS MIDDLE EAST

Al-Qaeda deputy unveils Libya wing

Ayman al-Zawahiri, al-Qaeda's second-in-command, has announced a Libyan group has joined the organisation.

"Today, with grace from God, the Muslim nation witnesses a blessed step," al-Zawahiri said in a recording posted on the internet on Saturday.

"Honourable members of the Fighting Islamic Group in Libya announce that they are joining the al-Qaeda group to continue the march of their brothers," al-Zawahiri said in the statement produced by as-Salaf al-Jadid, the al-Qaeda's media arm.



In 2006, al-Qaeda's as-Sahab released 58 videos compared to 16 in 2005 [AFP]

He urged mujahideen in North Africa to topple the leaders of Libya, Tunisia, Algeria and Morocco.

"O nation of jihad, support your sons so that we defeat our enemies and rid our homeland of their slaves," he said, naming the leaders of the four North Africa Arab nations.

'Loyal soldiers'

Al-Zawahiri presented Abu al-Laith, who appeared to be the leader of the new Libyan wing.

"We announce we are joining al-Qaeda as loyal soldiers," Abu al-Laith said in a 28-minute recording posted on an Islamic website on Saturday.

The Fighting Islamic Group first announced its presence in 1995, vowing to overthrow Muammar Gaddafi, the Libyan leader.

Its members have clashed with government forces for years and several of its leaders have been arrested in Libya and abroad.

In 2001, the group was added to a UN list of individuals and institutions "belonging to, or associated with, al-Qaeda".

'Enemy of Islam'

Enclosure 4

Al-Zawahiri described Gaddafi as an enemy of Islam and criticised him for abandoning his "weapons and equipment to ... crusader masters".

The statements were in reference to the Libyan leader's decision to end years international isolation in 2003, when it promised to give up nuclear, chemical biological weapons and accepted responsibility for the Lockerbie bombing in 1988.

Al-Zawahiri also urged members of Fatah, the Palestinian movement, backed by Mahmoud Abbas, the Palestinian president, to abandon his secular line and join Islamic-led fighters, in an apparent reference to Hamas and the Islamic Jihad.

"I urge ... Fatah and al-Aqsa [Martyrs] Brigades to confront their leadership w turned their organisation into a branch of the CIA and the Mossad," al-Zawahi said.

Source: Agencies

Aljazeera.net 2003-2008 - Powered by Horizons

Enclosure 4

24 March 2008

From: LCDR William C. Kuebler, JAGC, USN, Detailed Defense Counsel

To: MAJ³ [REDACTED] USMC, Trial Counsel

Subj: SUPPLEMENTAL REQUEST FOR DISCOVERY I/O U.S. V. OMAR KHADR

Ref: (a) R.M.C. 701(c)

1. Pursuant to reference (a), the defense respectfully requests production of, or the opportunity to inspect and photocopy, the following materials:

a. The award and medal citations and letters of appreciation for the personnel who received awards due to their participation in the 27 July 2002 firefight at issue in this case as well as the documentation supporting the awards and medals;

b. OC1's (a/k/a XO3) sworn statement of 3 August 2005, "Memorandum for Commander", and 2-page DA Form 2823 (if different from XO3's sworn statement) referenced in the document labeled with Bates No. 00766-001026;

c. The front and back pages of the attachments to the 17 March 2004 summary of interview of OC1 containing SA³ [REDACTED] markings that are referenced at 00766-000969;

d. Copies of all membership lists of al Qaeda, or other documents purporting to show the members of al Qaeda, from 1989 onwards;

e. Documents showing the structure of al Qaeda, the identity of its members, and the identity of individuals who have sworn bayat to al Qaeda (or Osama bin Laden), including, but not limited to, documents seized from the Kandahar house of Muhammad Atef (A/K/A/ Abu Hafs al Masri) in approximately 2002;

f. E-mail correspondence within the F.B.I. complaining about and calling into question the interrogation techniques or treatment of detainees held in Guantanamo Bay, Cuba;

g. Communications between the F.B.I. Office of Legal Counsel and the Department of Defense Office of the General Counsel regarding the interrogation methods and practices or treatment of detainees at GTMO;

h. A copy of the July 14, 2004 memorandum from T.J. Harrington, F.B.I. to MG Donald J. Ryder, Criminal Investigation Command, regarding aggressive interrogation techniques being used against detainees at Guantanamo by military interrogators;

i. A list of all people currently held by the United States who are believed to be members of al Qaeda and their current location and method to contact them;

- j. Names of all unnamed co-conspirators alleged in Charge III known to the U.S. government;
- k. Copies of all al-Qaeda training manuals/materials held by the U.S. Government;
- l. A copy of the Church Report, the Schmidt-Furlow Report and reports by the International Committee for the Red Cross submitted to the United States regarding the treatment of detainees or concerns regarding interrogations techniques used on detainees;
- m. Copies of all electronic surveillance of the accused while held in U.S. custody, including existing transcripts of the electronic surveillance;
- n. Copies of reports referenced by SA ³ [REDACTED] in 00766-002260;
- o. Copies of claims of abuse referenced in an ROI of 11 Sep 05, 00766-002270, in which it states that “[b]oth CITF GTMO and OARDEC records showed claims of abuse by Khadr while he was being held in Afghanistan”;
- p. Copies of the medical file review referenced in an ROI of 14 July 05, 00766-002268, which states that a “medical file review has been submitted”;
- q. Intelligence reports or other documents in the possession of Combined Joint Task Force 82 or other government agency relating to Abu Laith Al Libi generated on, before, or after 1 February 2008 (note: the defense believes this to be within the scope of its previous request, but supplements to assist the prosecution in locating responsive materials);
- r. Intelligence reports or other documents relating to the Libyan Islamic Fighting Group (LIFG);
- s. Intelligence reports (interrogations of KSM) relating to contacts between al Qaeda and the LIFG referenced at p. 489, note 15, of the 9/11 Report;
- t. Videos or other materials produced by “Al Sahab” media relating to Abu Laith Al Libi and/or the 2007 affiliation of Al Libi and LIFG with Al Qaeda;
- u. A copy of the Fatwah of Shaykh Hassan Qaid, dated 23 September 2000 (sic?) referenced by Evan F. Kohlman at p. 16, note 99, of the document available at the following web address: <http://www.nefafoundation.org/miscellaneous/neralifg1007.pdf>;
- v. Any documents or other materials relied upon by the United States Government in designating the LIFG a “terrorist organization” (or similar designation), including, without limitation, the 8 February 2006 designation by the Department of the Treasury,