MILITARY COMMISSIONS TRIAL JUDICIARY
GUANTANAMO BAY, CUBA

UNITED STATES OF AMERICA v. ABD AL RAHIM HUSSAYN MUHAMMAD AL NASHIRI	**AE 120DDDDD** **Government's Thirty-Third Notice** Relating To Its Efforts To Comply With The Commission's 24 June 2014 Discovery Order (AE 120AA) 9 March 2016

On 6 August 2014, the government committed to providing the Commission with an update on its efforts to comply with the Commission's 24 June 2014 Order ("Order") establishing a ten-category construct "to focus the Prosecution's analysis of information as it unilaterally fulfills its discovery obligations and responds to current and future discovery requests" from the defense for information regarding the Central Intelligence Agency's ("CIA") former Rendition, Detention, and Interrogation Program ("RDI Program"). AE 120AA. On 9 September 2014, the government provided its first update and reported that it had been working seven days per week to comply with the Order. AE 120MM. On 15 September 2014, the Commission ordered the government to "provide a detailed status regarding compliance and its proposed course of action" if the government is unable to comply fully with the Order by 31 December 2014, and the Commission ordered the government to provide updates every two weeks until the government complies fully with the Order. AE 120OO at 2.

On 31 December 2014, the government provided its second update (AE 120JJJ) and reported that it had filed motions seeking approval of government-proposed substitutions and other proposed relief relating to all ten categories identified in the Order. AE 120CC; AE 120JJ; AE 120LL; AE 120QQ; AE 120VV; AE 120AAA. The government also filed supplemental motions relating to several categories in which the government had identified additional discoverable information. AE 120BBB; AE 120CCC; AE 120DDD; AE 120EEE; AE 120FFF.

On 14 January 2015, the government provided its third update, where the government identified the progress it continued to make in locating, identifying, and reviewing information potentially responsive to the Order. AE 120LLL. On 28 January 2015, 11 February 2015, 25 February 2015, 11 March 2015, 25 March 2015, 8 April 2015, 22 April 2015, 6 May 2015, 20 May 2015, 3 June 2015, 17 June 2015, 1 July 2015, 15 July 2015, 29 July 2015, 14 August 2015, 26 August 2015, 9 September 2015, 23 September 2015, 7 October 2015, 21 October 2015, 4 November 2015, 18 November 2015, 2 December 2015, 17 December 2015, 30 December 2015, 13 January 2016, 27 January 2016, 10 February 2016, and 24 February 2016, the government provided its fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, twenty-ninth, thirtieth, thirty-first, and thirty-second updates, where the government further explained that it continued to locate, identify, and review information potentially responsive to the Order. AE 120NNN; AE 120PPP; AE 120RRR; AE 120TTT; AE 120VVV; AE 120XXX; AE 120ZZZ; AE 120BBBB; AE 120DDDD; AE 120FFFF; AE 120HHHH; AE 120IIII; AE 120JJJJ; AE 120KKKK; AE 120LLLL; AE 120MMMM; AE 120NNNN; AE 120OOOO; AE 120PPPP; AE 120QQQQ; AE 120RRRR; AE 120VVVV; AE 120WWWW; AE 120XXXX; AE 120YYYY; AE 120ZZZZ; AE 120AAAAA; AE 120BBBBB; AE 120CCCCC.

In addition to substantial compliance with all ten categories of information set forth in AE 120AA, through submissions to the Commission under the Military Commissions Act of 2009 ("M.C.A.") and Military Commission Rule of Evidence 505, the government on 31 December 2014 produced to the defense the substitutions approved by the Commission in AE 120ZZ (approving AE 120JJ relating to paragraphs 13.a., 13.b., and 13.c. of the Order) and AE 120YY (approving AE 120LL relating to paragraphs 13.d., 13.f., and 13.g. of the Order). The

government on 12 January 2016 produced to the defense the substitutions approved by the Commission in AE 120SSSS (approving AE 120VV relating to paragraphs 13.i. and 13.j. of the Order), AE 120TTTT (approving AE 120BBB relating to paragraph 13.c. of the Order), and AE 120UUUU (approving AE 120FFF relating to paragraphs 13.i. and 13.j. of the Order). The government remains ready to produce its additional proposed substitutions and other relief if approved by the Commission. *See* AE 120CC (the government's motion relating to paragraphs 13.a., 13.b., and 13.c.); AE 120CCC and AE 120DDD (the government's first and second supplements relating to paragraphs 13.d., 13.f., and 13.g.); AE 120QQ and AE 120EEE (the government's motion and first supplement relating to paragraph 13.e.); AE 120AAA and AE 120III (the government's motion and first supplement relating to paragraph 13.h.).

Moreover, the government filed three motions requesting approval of proposed substitutions and other relief relating to additional information. AE 120KK; AE 120GGG; AE 303. The Commission approved the government-requested substitutions and other relief relating to AE 120KK (AE 120UU), and the government produced those approved substitutions and other relief to the defense on 31 December 2014.

The government continues to make progress in its efforts to comply fully with the Order. The government anticipates filing supplemental motions requesting approval of proposed substitutions and other relief where necessary, based on new information discovered by the government. *See*, *e.g.*, AE 120GGGG (updating prudential search requests issued in November 2014, December 2014, and January 2015). The government will file those supplemental motions as soon as possible and will produce the discoverable information—to the extent any exists—in a manner consistent with the M.C.A.

On 9 December 2014, the Senate Select Committee on Intelligence released declassified portions of the Executive Summary to its "Committee Study of the Central Intelligence Agency's

Detention and Interrogation Program." The unredacted portions of the Executive Summary are declassified; thus, the defense may display and discuss those portions of the Executive Summary with the accused. *See* AE 206M (providing classification guidance relating to the CIA's former RDI Program).

On 18 February 2015, the Senate Select Committee on Intelligence authorized the Office of the Chief Prosecutor of Military Commissions to review the full Study. The prosecution immediately began its efforts to review the full Study for potentially discoverable information. *See* AE 206Q (the Government's Seventh Notice Relating To The Senate Select Committee On Intelligence Study). The prosecution intends to continue reviewing the full Study until its review is complete.

Attachment:

A. Certificate of Service, dated 9 March 2016.

Respectfully submitted,

_____//s//_____
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ATTACHMENT A

CERTIFICATE OF SERVICE

I certify that on the 9th day of March 2016, I filed **AE 120DDDDD, Government's Thirty-Third Notice** Relating To Its Efforts To Comply With The Commission's 24 June 2014 Discovery Order (AE 120AA), with the Office of Military Commissions Trial Judiciary and served a copy on counsel of record.

//s//
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