

MILITARY COMMISSIONS TRIAL JUDICIARY
GUANTANAMO BAY, CUBA

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

AE779 (AAA)

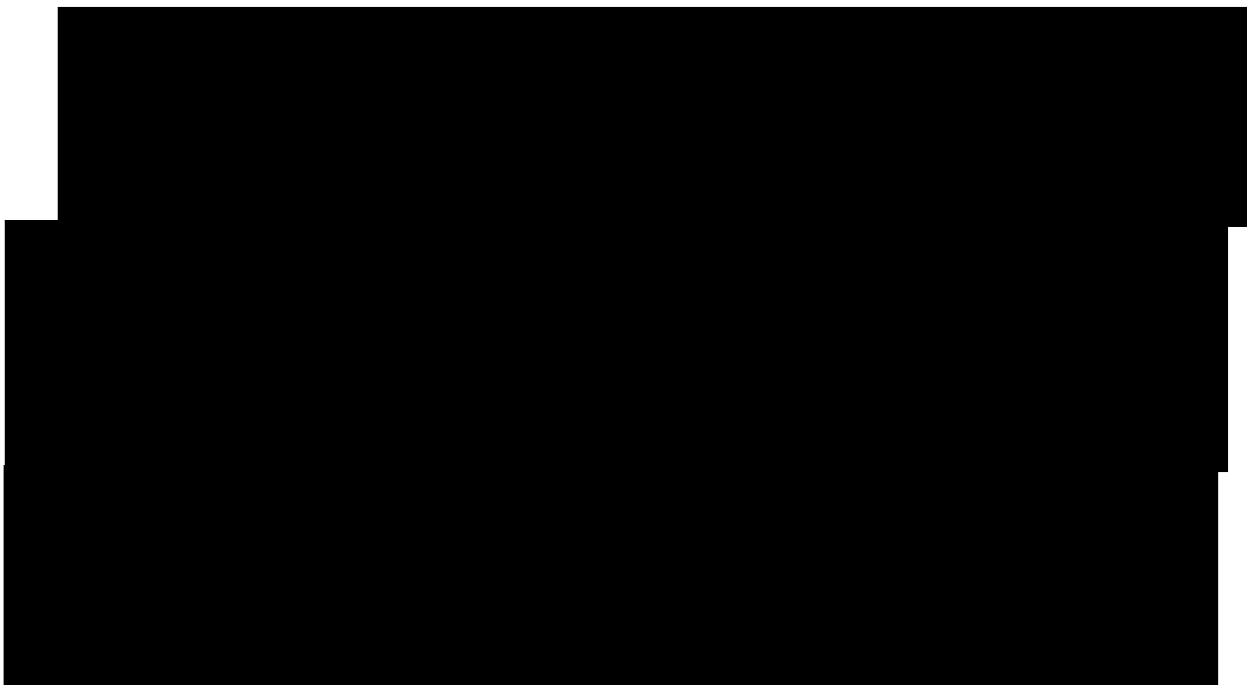
Mr. al Baluchi’s Motion to Compel
Discovery Regarding Interagency Processes to
Obtain Statements from the Defendants

12 March 2020

1. **Timeliness:** This motion is timely filed.

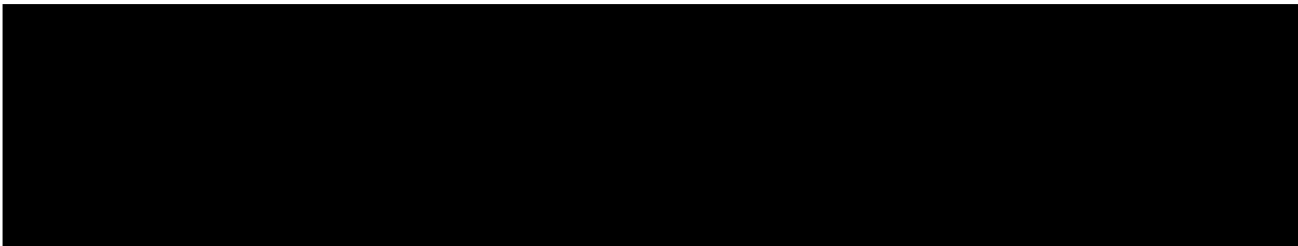
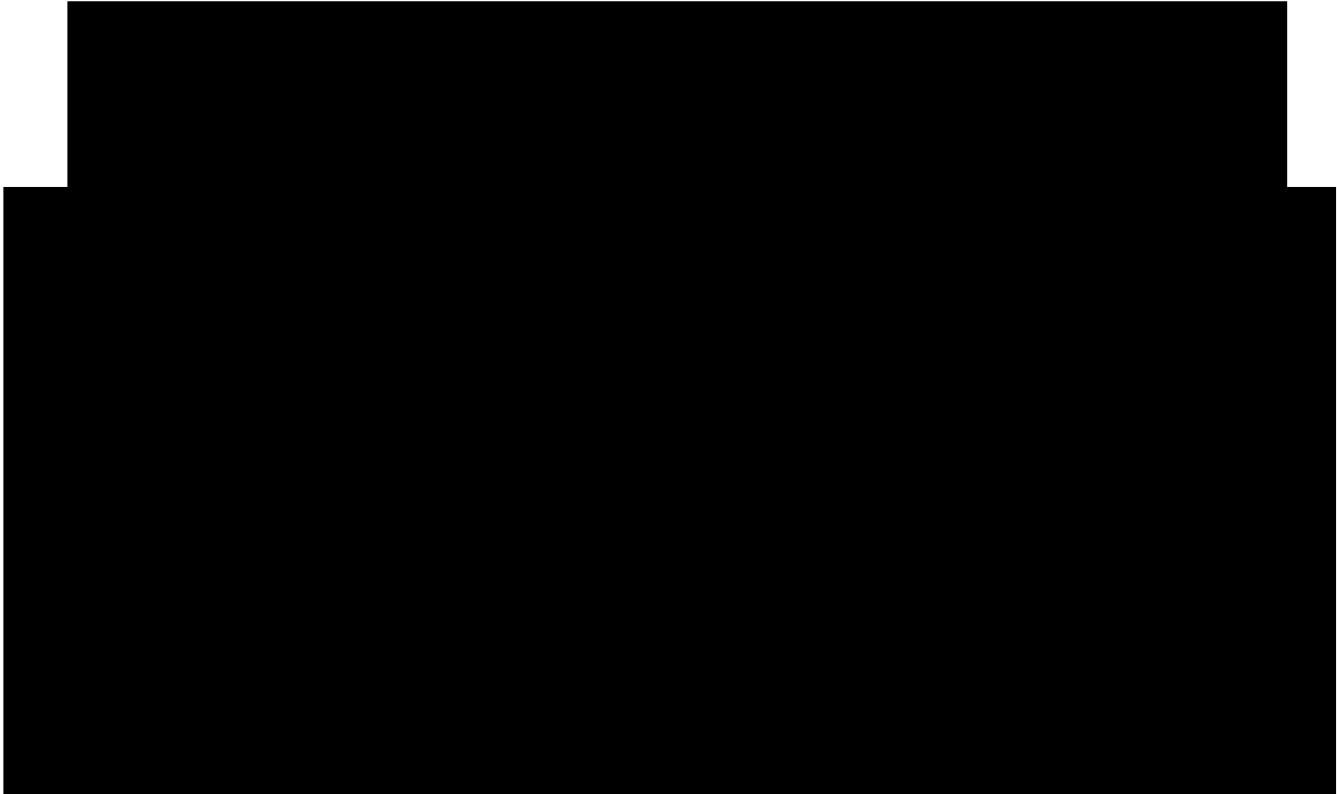
2. **Relief Sought:**

Under AE538AA / AE561T Order, the military commission should order the government to produce unredacted versions of all documents related to the interagency policy processes undertaken as part of the effort to obtain statements from the defendants. Mr. al Baluchi is aware of four such policy processes, although there are no doubt more:






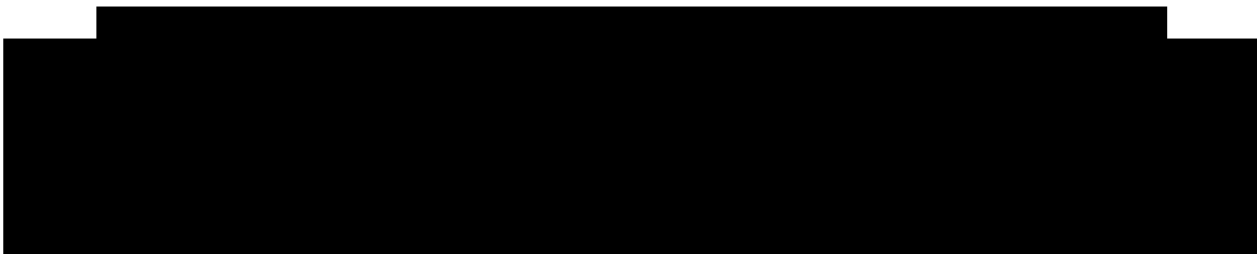
3. **Burden of Proof**: Mr. al Baluchi bears the burden of persuasion.




¹ Att. B.



d. On 10 January 2018, Mr. al Baluchi submitted DR-370-AAA Defense Request for Discovery of Complete and Unredacted Copies of all Interagency Materials Related to the Decision to Authorize Federal Bureau of Investigation Agents to Interview Mr. al Baluchi and Others at the Guantanamo Bay, Cuba detention facility to the government, requesting any documents, by any name, title, or format, generated in pursuit or furtherance of the interagency policy process that resulted in the 10 January 2007 Federal Bureau of Investigation guidelines concerning “historical narrative” interviews of Mr. al Baluchi and others at the Guantanamo Bay, Cuba detention facility.³



f. On 31 January 2018, the government refused to produce the discovery Mr. al Baluchi requested through DR-352-AAA.⁵



² The single page of discovery was an informal cover note, containing one sentence suggesting that Special Agent James Fitzsimmons had interrogated Mr. al Baluchi in 2003. *See* Unofficial/Unauthenticated Transcript of 20 June 2019 at 23423-24.

³ Att. C.

⁴ Att. D.

⁵ Att. E.

[REDACTED]

k. On 1 April 2019, the government informed the military commission that, “At this time, the Prosecution deems its volunteered discovery obligations satisfied and complete.”⁸

l. On 29 August 2019, Mr. al Baluchi submitted DR-411-AAA to the government, asking that it produce discovery related to a variety of interagency structures intended to facilitate interagency cooperation in order to acquire statements from Mr. al Baluchi and others. These interagency structures were known as the Senior Leadership Oversight Committee, the Special Detainee Follow-up Group, the Joint Detainee Coordinating Committee, and the High-value

⁶ AE412R Official/Unauthenticated Transcript of 2 May 2018 at 8-9; Official/Unauthenticated Transcript of 3 May 2018 at 19382-89; *cf.* Unofficial/Unauthenticated Transcript of 23545-46; Unofficial/Unauthenticated Transcript of 26 July 2019 at 24564-65.

⁷ Unofficial/Unauthenticated Transcript of 23 July 2018 at 19964-93; Unofficial/Unauthenticated Transcript of 25 July 2018 [T. 7/25/18] at 20182-240; Official/Unauthenticated Transcript of 26 July 2018 at 19817-60.

⁸ AE538M Government Notice of the Status of Discovery at 3.

Detainee Prosecution Task Force. Mr. al Baluchi requested the government produce documents concerning the establishment and responsibilities of these processes, as well as their outputs and decisions.⁹ The government never responded to Mr. al Baluchi's request.

m. On 11 September 2019, Mr. al Baluchi argued AE538 and AE561 again.¹⁰ The government "ask[ed] that AE538 and 561 be denied by the military commission as moot because the prosecution has satisfied its agreed-to obligations."¹¹

[REDACTED]

Mr. al Baluchi requested the military commission to rule on AE538(WBA) and AE561(AAA) without further argument.

o. On 25 October 2019, in AE538AA / AE561T Order, the military commission found that the following evidence is discoverable under R.M.C. 701 and ordered that, no later than 25 November 2019:

[REDACTED]

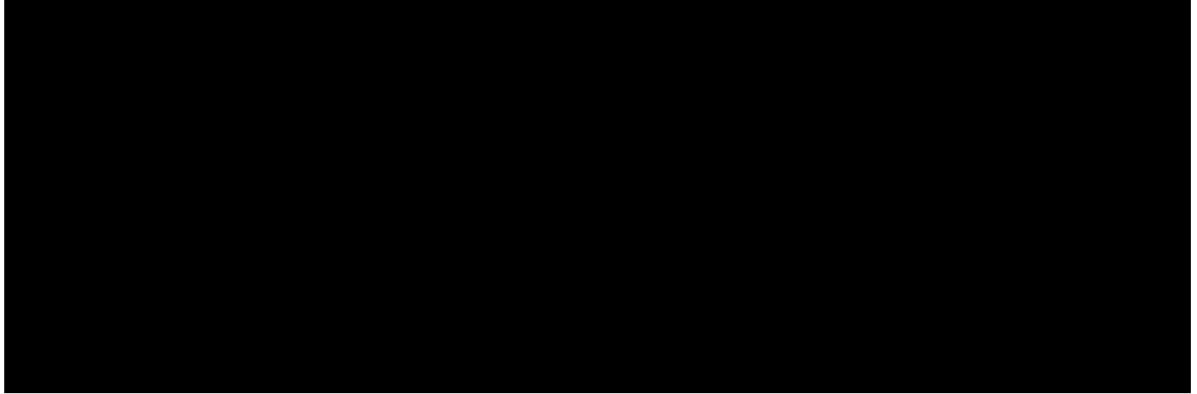
⁹ Att. F.

¹⁰ Unofficial/Unauthenticated Transcript of 11 September 2019 at 24973-5062.

¹¹ *Id.* at 25040.

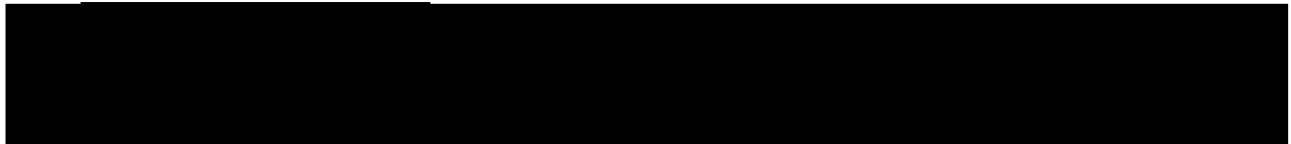
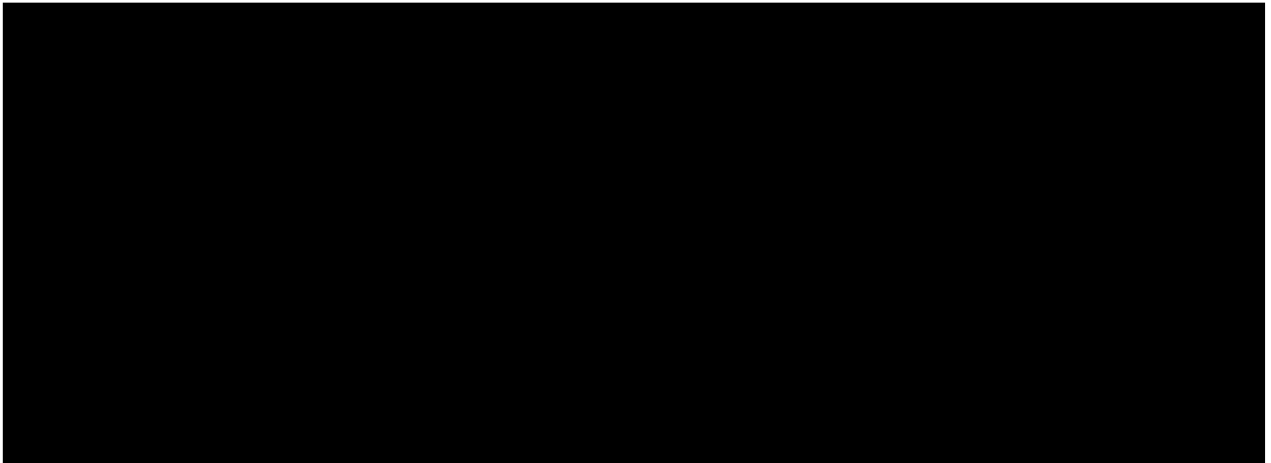
¹² AE538Z (AAA) Mr. al Baluchi's Notice of Status of Discovery at 1.

¹³ *Id.* at 1.

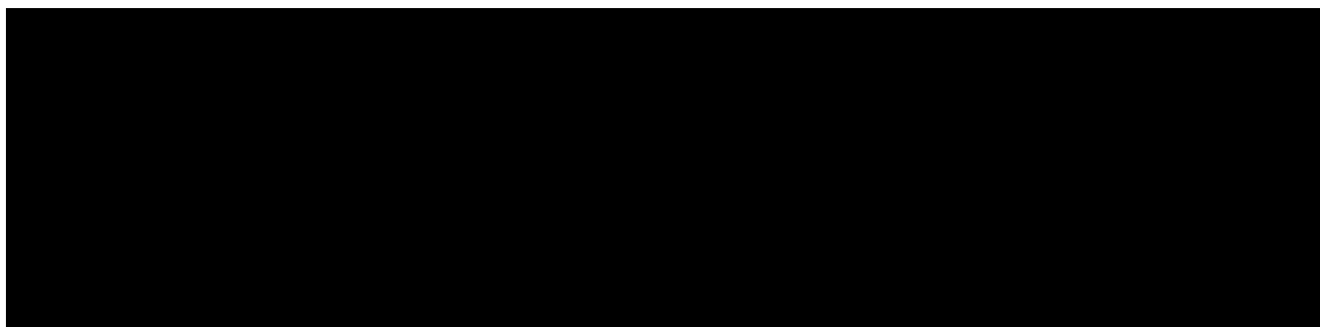
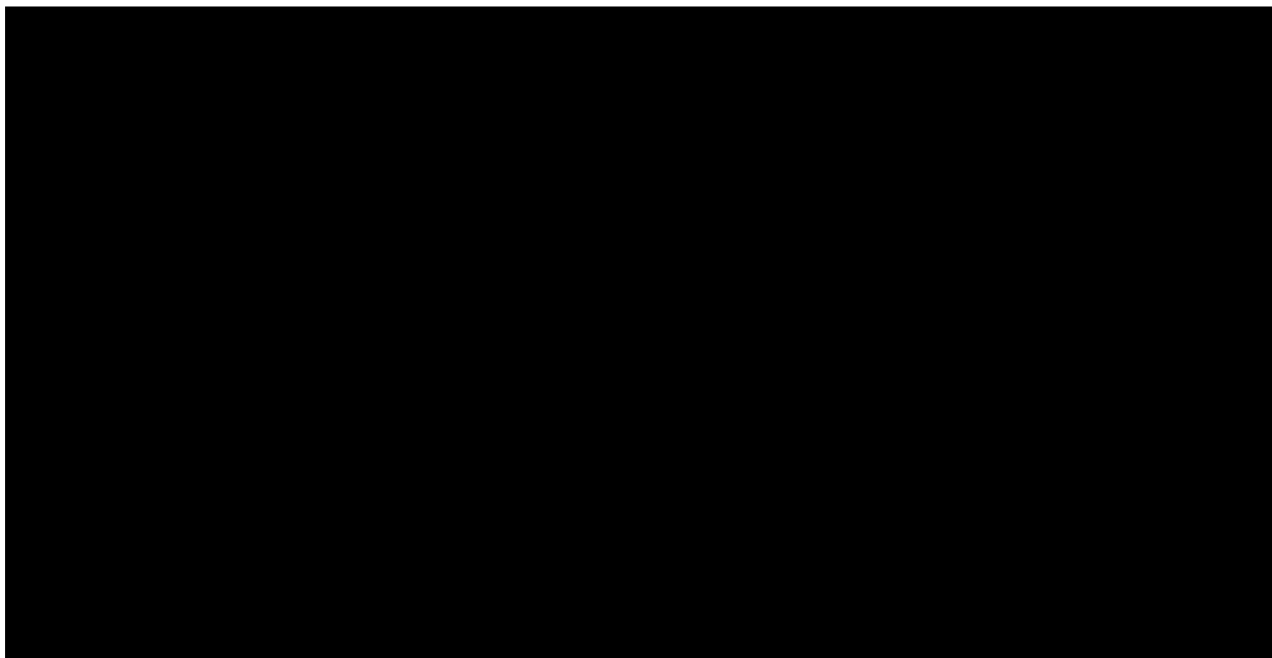
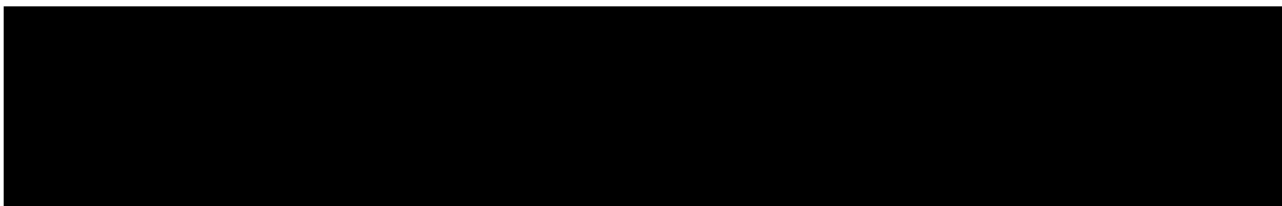


The military commission also ordered that the government seek any M.C.R.E. 505 or 506 relief from AE538AA / AE561T Order no later than 25 November 2019.¹⁵ And, the military commission directed that additional discovery motions in the series be precise and assigned to a new AE series.

p. The government has not requested any M.C.R.E. 505 or 506 relief from AE538AA / AE561T Order concerning documents that demonstrate interagency cooperation in the January 2007 reinterrogation of Mr. al Baluchi and others.



Id. at 9.



¹⁶ *Id.* at 8.

¹⁷ AE538C (AAA), Att. F.

¹⁸ AE628AA (GOV) Government Notice of Exhibits Demonstrating Jurisdiction and Voluntariness of Mr. al Baluchi's 2007 Statements to Law Enforcement, Att. C at MEA-LHM-00001430 – 1434.

¹⁹ *Id.* at MEA-LHM-00001431.

government refused to provide any such discovery when Mr. al Baluchi initially requested it in December 2017 and January 2018. Nor did the government provide any discovery in response to Mr. al Baluchi's subsequent request for discovery related to specific interagency cooperation in efforts to obtain statements from Mr. al Baluchi under the aegis of the High-Value Detainee Prosecution Task Force, the Special Detainee Follow-Up Group, or the Senior Leadership Oversight Committee. And, although the interagency cooperation evidenced by those interagency policy processes are exactly the sort of cooperation that the military commission ordered the government to produce by 25 November 2019 in AE538AA / AE561 T, the government has still yet to produce responsive discovery outside the limited context of Camp 7.²⁰

Finally, the government did not seek relief from AE538AA / AE561T concerning the documents at issue here under M.C.R.E. 505 or 506 by 25 November 2019, as directed by the military commission.

In light of the military commission's Order in AE538AA / AE561T, the military commission should direct the government to produce to Mr. al Baluchi unredacted documents relating to the months-long interagency policy processes that resulted in joint FBI-CITF investigators reinterrogating Mr. al Baluchi in January 2007, having armed themselves with previously disseminated intelligence information derived from his torture. [REDACTED]

[REDACTED]

[REDACTED]

²⁰ Through his open-source investigatory efforts, Mr. al Baluchi has determined that at least two such responsive documents exist publicly in heavy redacted form. AE538C, Att. E & Att. F. But the government has failed to produce either of those documents in an unredacted, less-redacted, or substituted form.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] And, such

cooperation included the joint, interagency decision concerning who would be granted access to that compendium of information and what information would be included therein. The government's failure to either produce responsive discovery or seek relief from AE538AA / AE561T under its terms places the government out of compliance with the order itself and the government's continuing discovery obligations under R.M.C. 701.

6. **Request for Argument:** Oral argument is requested.

7. **Request for Witnesses:** None.

8. **Certificate of Conference:** The government states its position as follows: "Any material information regarding interagency cooperation and any material interagency correspondence relating to efforts to obtain statements from the five Accused have been provided. We oppose any motion to compel discovery of this subject matter as moot."

9. **Attachments:**

- A. Certificate of Service;
- B. DR-352-AAA;
- C. DR-370-AAA;
- D. Prosecution Response to DR-370-AAA dated 16 January 2018;
- E. Prosecution Response to DR-352-AAA dated 31 January 2018;
- F. DR-411-AAA.

Very respectfully,

//s//

JAMES G. CONNELL, III
Learned Counsel

//s//

STERLING R. THOMAS
Lt Col, USAF
Defense Counsel

//s//

ALKA PRADHAN
Defense Counsel

//s//

BENJAMIN R. FARLEY
Defense Counsel

//s//

ANN MARIE BUSH
Maj, USAF
Defense Counsel

Counsel for Mr. al Baluchi

Attachment A

CERTIFICATE OF SERVICE

I certify that on the 12th day of March, 2020, I electronically filed the foregoing document with the Clerk of the Court and served the foregoing on all counsel of record by email.

//s//

JAMES G. CONNELL, III

Learned Counsel

Attachment B



DEPARTMENT OF DEFENSE
MILITARY COMMISSIONS DEFENSE ORGANIZATION
1620 DEFENSE PENTAGON
WASHINGTON, DC 20301-1620

7 December 2017

MEMORANDUM FOR Trial Counsel

FROM: Sterling R. Thomas, Lt Col, USAF, Military Defense Counsel for Mr. al Baluchi

SUBJECT: DEFENSE REQUEST FOR DISCOVERY
Information regarding CIA database identified in MEA-LHM-1430

Discovery Request

Mr. al Baluchi, by and through undersigned counsel pursuant to RMC 701, 10 U.S.C. § 949p-4, Common Article III to Geneva Convention (III) Relative to the Treatment of Prisoners of War, the Due Process Clause of the Fifth Amendment, the Confrontation Clause to the Sixth Amendment, and the Compulsory Process Clause of the Sixth Amendment to the United States Constitution, hereby requests that the government produce the discovery described below.

Definitions

In this request, the following definitions shall govern:

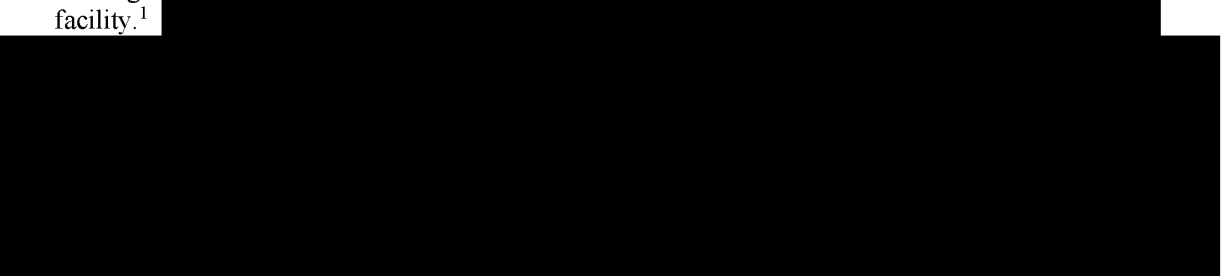
“CIA database” means the collection of Central Intelligence Agency (CIA) databases, referred to in AE502XX, also known as MEA-LHM-1430 to which Federal Bureau of Investigation agents were granted “limited access” and that contained “intelligence reports that were previously disseminated to the intelligence community (i.e., TDs, TDXs, CIRs).”

“Produce” means to convey to the defense without redaction (except as authorized by the military commission pursuant to MCRE 505) or alteration of any information associated with the request, including metadata. If the military commission authorizes substitutions or redactions pursuant to MCRE 505, the word “produce” includes a notation of the Appellate Exhibit number of the order authorizing the substitutions or redactions. To the extent that responsive documents are subject to the attorney-client or other applicable privilege, the word “produce” means to provide a privilege log of any withheld information or documents, along with the facts disclosed in the responsive documents that are not communications protected by attorney-client privilege, and documents attached and/or incorporated into the responsive documents that are not otherwise exempt.

DR-352-AAA
2017-12-07

Background

On 10 January 2007, the Federal Bureau of Investigation's Office of General Counsel, National Security Law Branch disseminated guidelines concerning FBI agent participation in interrogation of Mr. al Baluchi and others at the Guantanamo Bay, Cuba (GTMO) detention facility.¹



Request

Please produce any and all information regarding the CIA database, including but not limited to the following information:

- (1) All policies governing creation of, population of, access to, or review of the CIA database;
- (2) All communications to or from members of the Office of the Chief Prosecutor (OCP), CIA, FBI, and/or CITF regarding creation of, population of, access to, or review of the CIA database;
- (3) Logs of access to the CIA database (including user or IP address information) by members of OCP, FBI, or CITF.

Thank you for your prompt attention to this matter. Please do not hesitate to contact me if you require any clarifications or additional information.

Respectfully submitted,

//s//

STERLING R. THOMAS, Lt Col, USAF
Counsel for Mr. al Baluchi

¹ MEA-LHM-1430.

² *Id.* at ¶ 3.

DR-352-AAA
2017-12-07

Attachment C



DEPARTMENT OF DEFENSE
MILITARY COMMISSIONS DEFENSE ORGANIZATION
1620 DEFENSE PENTAGON
WASHINGTON, DC 20301-1620

10 January 2018

MEMORANDUM FOR Trial Counsel

FROM: Sterling R. Thomas, Lt Col, USAF, Military Defense Counsel for Mr. al Baluchi

SUBJECT: DEFENSE REQUEST FOR DISCOVERY
Complete and Unredacted Copies of all Interagency Materials Related to the Decision to Authorize Federal Bureau of Investigation Agents to Interview Mr. al Baluchi and others at the Guantanamo Bay, Cuba detention facility

Discovery Request

Mr. al Baluchi, by and through undersigned counsel pursuant to RMC 701, 10 U.S.C. § 949p-4, Common Article III to Geneva Convention (III) Relative to the Treatment of Prisoners of War, the Due Process Clause of the Fifth Amendment, the Confrontation Clause to the Sixth Amendment, and the Compulsory Process Clause of the Sixth Amendment to the United States Constitution, hereby requests that the government produce the discovery described below.

Definitions

In this request, the following definitions shall govern:

“Interagency process” means the process of formulating, coordinating, or implementing U.S. government policy, including legal policy, among agencies of the U.S. government. “Interagency process” includes the formalized processes established in 2001 by National Security Presidential Directive – 1, or its successors, as well as *ad hoc* processes. Formal interagency processes may include National Security Council (“NSC”) meetings, Principals Committees (“PCs”), Deputies Committees (“DC”), and Policy Coordinating Committees (“PCCs”). *Ad hoc* processes may include “small groups” or “lawyers groups” intended to resolve a discrete policy problem.

“Interagency documents” means any documents, by any name, title, or format, produced in pursuit or furtherance of the interagency process. Such documents may include:

- agendas produced by National Security Council staff¹ for use in the interagency process such as but not limited to meetings known as NSCs, PCs, DCs, or PCCs;
- any so-called read-ahead produced by the National Security Council staff for use by a representative of the National Security Council in the interagency process;

¹ The staff of the National Security Council, sometimes referred to as the National Security Council staff or the National Security Staff or NSC staff, will be referred to as “National Security Council staff” in this document.

DR-370-AAA
2018-01-10

- any so-called read-ahead or pre-brief produced by the National Security Council staff for use by another U.S. government agency, or component of such an agency, in developing its own briefing materials or interagency-process-related materials;
- any annotated agendas produced by any U.S. government agency, or component of such an agency, for use by the agency or component's representative(s) in the interagency process (e.g., a Department of State annotated agenda for use by the Secretary of State or his designee at a PC);
- any briefing material generated by the staff of any U.S. government agency, or component of such an agency, to be used by representatives of that agency or component while participating in interagency meetings;
- any formal or informal Statements of Conclusion ("SOC"), or similar document summarizing a meeting, articulating conclusions or decisions, and assigning responsibility for any ongoing action, generated as a result of any interagency meeting; and
- any formal or informal instructions or guidance issued by any U.S. government agency, or component of such an agency, issued as a result of an interagency process (e.g., the 10 January 2007 guidelines issued by the Federal Bureau of Investigation's Office of General Counsel, National Security Law Branch concerning FBI agent participation in interrogation of Mr. al Baluchi and others at the Guantanamo Bay, Cuba (GTMO) detention facility²).

"Produce" means to convey to the defense without redaction (except as authorized by the military commission pursuant to MCRE 505) or alteration of any information associated with the request. If the military commission authorizes substitutions or redactions pursuant to MCRE 505, the word "produce" includes a notation of the Appellate Exhibit number of the order authorizing the substitutions or redactions. To the extent that responsive documents are subject to the attorney-client or other applicable privilege, the word "produce" means to provide a privilege log of any withheld information or documents, along with the facts disclosed in the responsive documents that are not communications protected by attorney-client privilege, and documents attached and/or incorporated into the responsive documents that are not otherwise exempt.

Background and Request


On 10 January 2007, the FBI's Office of General Counsel, National Security Law Branch disseminated guidelines concerning FBI agent participation in the interrogation of Mr. al Baluchi and others at the Guantanamo Bay, Cuba (GTMO) detention facility.

² MEA-LHM-1430.

³ *Id.*

⁴ *Id.* at ¶ 3.

DR-370-AAA
2018-01-10



Mr. al Baluchi requests original and undredacted copies of all interagency documents related to the interagency policy process that resulted in the 10 January 2007 FBI Office of General Counsel guidelines concerning FBI “historical narrative” interviews of Mr. al Baluchi and others at GTMO, including interagency documents that relate to the interagency process by which the FBI was authorized to participate in such interviews.

Thank you for your prompt attention to this matter. Please do not hesitate to contact me if you require any clarifications or additional information.

Respectfully submitted,

//s//

STERLING R. THOMAS, Lt Col, USAF
Counsel for Mr. al Baluchi

⁵ AE 538C Mr. al Baluchi’s Reply to Government’s Response to Motion to Compel FBI Manual for Terrorism Interrogation, at Attachment E.

⁶ *Id.* at Attachment F.

DR-370-AAA
2018-01-10

Attachment D



OFFICE OF THE
CHIEF PROSECUTOR

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

16 January 2018

MEMORANDUM FOR Defense Counsel for Ali Abdul Aziz Ali

SUBJECT: Prosecution Updated Response to 10 January 2018
Request for Discovery (DR-370-AAA)

1. The Prosecution received the Defense request for discovery on 11 January 2018. The Prosecution hereby updates its response to the Defense request.

2. The Defense asserts and requests:

On 10 January 2007, the FBI's Office of General Counsel, National Security Law Branch disseminated guidelines concerning FBI agent participation in the interrogation of Mr. al Baluchi and others at the Guantanamo Bay, Cuba (GTMO) detention facility. Those guidelines provided that "[FBI] agents will also be given limited access to CIA databases containing intelligence reports that were previously disseminated to the intelligence community (i.e., TDs, TDXs, CIRs)." Former FBI Special Agent Abigail Perkins, and perhaps others, reviewed information contained in a CIA database prior to interrogating Mr. al Baluchi in late January 2007. Special Agent James Fitzgerald has acknowledged reviewing the CIA database, but stated that he does not recall whether he did so before or after interrogating Mr. al Baluchi in late January 2007.

The 10 January 2007 FBI Office of General Counsel guidelines were the culmination of a policy process that extended at least six weeks, involving representatives of the National Security Council, the Department of Defense, the Department of State, the Department of Justice, the Central Intelligence Agency, and the Director of National Intelligence.

Mr. al Baluchi requests original and unredacted copies of all interagency documents related to the interagency policy process that resulted in the 10 January 2007 FBI Office of General Counsel guidelines concerning FBI

"historical narrative" interviews of Mr. al Baluchi and others at GTMO, including interagency documents that relate to the interagency process by which the FBI was authorized to participate in such interviews.

The Letterhead Memoranda ("LHM") detailing your client's admissions to the FBI is what has also been referred to previously as the "historical narrative." You have been provided the LHM, as well as the notes that were taken contemporaneous with the taking of the statement. The Prosecution has also agreed to produce Special Agents Fitzgerald, Perkins, and McClain for your examination during the jurisdictional hearing.

Interagency documents relating to the policy process that occurred prior to the FBI/CITF interviews of your client are not discoverable pursuant to R.M.C 701. As the Defense does not cite to any specific theory of relevance that would reasonably warrant production of the requested information, and the Defense request does not appear to be material to the preparation of the defense, the Prosecution respectfully declines to produce the requested information.

Respectfully submitted,

 //s//
Nicole A. Tate
Assistant Trial Counsel

Attachment E



OFFICE OF THE
CHIEF PROSECUTOR

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

31 January 2018

MEMORANDUM FOR Defense Counsel for Ali Abdul Aziz Ali

SUBJECT: Prosecution Updated Response to 7 December 2017
Request for Discovery (DR-352-AAA)

1. The Prosecution received the Defense request for discovery on 7 December 2017. The Prosecution hereby updates its response to the Defense request.
2. The Defense asserts and requests:

On 10 January 2007, the Federal Bureau of Investigation's Office of General Counsel, National Security Law Branch disseminated guidelines concerning FBI agent participation in interrogation of Mr. al Baluchi and others at the Guantanamo Bay, Cuba (GTMO) detention facility. Those guidelines provided that "[FBI] agents will also be given limited access to CIA databases containing intelligence reports that were previously disseminated to the intelligence community (i.e., TDs, TDXs, CIRs)." Former FBI Special Agent Abigail Perkins, and perhaps others, reviewed information contained in a CIA database prior to interrogating Mr. al Baluchi in late January 2007. Special Agent James Fitzgerald has acknowledged reviewing the CIA database, but stated that he does not recall whether he did so before or after interrogating Mr. al Baluchi in late January 2007.

Please produce any and all information regarding the CIA database, including but not limited to the following information:

All policies governing creation of, population of, access to, or review of the CIA database;

Logs of access to the CIA database (including user or IP address information) by members of OCP, FBI, or CITF.

The only information arguably relevant about such a database is that to which retired Special Agent Abigail Perkins and Special Agent James Fitzgerald have already testified to during the closed sessions during the December 2017 session.

The Prosecution has had access to the referenced database and has reviewed it for discoverable information. To the extent that information was deemed discoverable from this database, it has either been provided to you or is the subject of a pending M.C.R.E. 505 filing.

The Defense does not cite to any specific theory of relevance that would reasonably warrant production of the requested information, nor does the Defense request appear to be material to the preparation of the defense, pursuant to R.M.C. 701. Therefore, the Prosecution respectfully declines to produce the requested information at this time.

Respectfully submitted,

 //s//
Nicole A. Tate
Assistant Trial Counsel

Attachment F



DEPARTMENT OF DEFENSE
MILITARY COMMISSIONS DEFENSE ORGANIZATION
1620 DEFENSE PENTAGON
WASHINGTON, DC 20301-1620

29 August 2019

MEMORANDUM FOR Trial Counsel

FROM: Sterling R. Thomas, Lt Col, USAF, Defense Counsel for Mr. al Baluchi

SUBJECT: DEFENSE REQUEST FOR DISCOVERY
**U.S. Government Organization, Integration, and Coordination for Purposes
of Exploiting Detainees and Preparing for Trial**

Discovery Request

Defendant, by and through undersigned counsel pursuant to RMC 701, 10 U.S.C. § 949p-4, Common Article III to Geneva Convention (III) Relative to the Treatment of Prisoners of War, the Due Process Clause of the Fifth Amendment, the Confrontation Clause to the Sixth Amendment, and the Compulsory Process Clause of the Sixth Amendment to the United States Constitution, hereby requests that the government produce the discovery described below.

Definitions

In this request, the following definitions shall govern:

“Produce” means to convey to the defense without redaction (except as authorized by the military commission pursuant to MCRE 505) or alteration of any electronically stored information associated with the document. If the military commission authorizes substitutions or redactions pursuant to MCRE 505, the word “produce” includes a notation of the Appellate Exhibit number of the order authorizing the substitutions or redactions. To the extent that responsive documents are subject to the attorney-client or other applicable privilege, the word “produce” means to provide a privilege log of any withheld information or documents, along with the facts disclosed in the responsive documents that are not communications protected by attorney-client privilege, and documents attached and/or incorporated into the responsive documents that are not otherwise exempt.

Background

In the 2000s, the U.S. government developed a number of interagency structures responsible for the oversight or implementation of programs related to CIA and DOD detainees, including programs intended to prepare for the prosecution of Mr. al Baluchi and the other defendants in the *United States v. Mohammad et al* military commission. The interagency structures included but were not limited to the Senior Leadership Oversight Committee; the Special Detainee Follow-up Group; the Joint Detainee Coordinating Committee; and the High-value Detainee Prosecution Task Force.

DR-411-AAA
2019-08-29

These interagency structures included—and continue to include—the Department of Defense, the Department of Justice, the Federal Bureau of Investigation, the Central Intelligence Agency, and the Criminal Investigative Task Force, among other agencies.

The relationship of the Department of Defense, the Department of Justice, the Federal Bureau of Investigation, the Central Intelligence Agency, and the Criminal Investigative Task Force is of central importance to Mr. al Baluchi's defense. [REDACTED]

[REDACTED] The government has long portrayed the January 2007 statements attributed to Mr. al Baluchi, and his subsequent prosecutions, as wholly distinct from his three-and-a-half year period of torture and interrogation in the CIA's custody. [REDACTED]

[REDACTED] As a result, such documents and information are exculpatory and material to his defense. Such exculpatory or material documents and information includes those that demonstrate the involvement of the CIA in and the integration of CIA-sponsored, torture-derived information into the January 2007 interrogation of Mr. al Baluchi, as well as the government's determination to prosecute him, and the development of the prosecution's case against him.

Such documents and information include

- documents establishing the inter-agency process by which the United States considered whether to prosecute so-called High Value Detainees in Article III courts or before military commissions; any briefing materials associated with that inter-agency policy process; any minutes, or statements or summaries of conclusion produced as a result of its meetings.
- documents establishing the Senior Leadership Oversight Committee; documents describing its composition; documents describing its responsibilities and authorities; any minutes, or statements or summaries of conclusion produced as a result of its meetings.
- documents establishing the Special Detainee Follow-up Group; documents describing its composition; documents describing its responsibilities and authorities; any minutes, or statements or summaries of conclusion produced as a result of its meetings.

- documents establishing the Joint Detainee Coordinating Committee; documents describing its composition; documents describing its responsibilities and authorities; any minutes, or statements or summaries of conclusion produced as a result of its meetings.
- documents establishing the High-value Detainee Prosecution Task Force; documents describing its composition¹; documents describing its responsibilities and authorities; any minutes, or statements or summaries of conclusion produced as a result of its meetings.
- communications between or among the Senior Leadership Oversight Committee, the Special Detainee Follow-up Group, JTF-GTMO, and the High-value Detainee Prosecution Task Force between 2006 and 2007 regarding (a) conditions of confinement at Camp 7; or (b) allocation of duties or responsibilities among various U.S. government agencies or interagency structures with respect to so-called high-value detainees like Mr. al Baluchi.

Request

Please produce any and all documents describing

- the establishment of the inter-agency process by which the United States considered whether to prosecute so-called High Value Detainees in Article III courts or before military commissions; any briefing materials associated with that inter-agency policy process; any minutes, or statements or summaries of conclusion produced as a result of its meetings.
- establishment of the Senior Leadership Oversight Committee; its composition; documents its responsibilities and authorities; and any minutes, or statements or summaries of conclusion produced as a result of its meetings.
- establishment of the Special Detainee Follow-up Group; its composition; documents its responsibilities and authorities; and any minutes, or statements or summaries of conclusion produced as a result of its meetings.
- establishment of the Joint Detainee Coordinating Committee; its composition; documents its responsibilities and authorities; and any minutes, or statements or summaries of conclusion produced as a result of its meetings.

¹ *E.g.*, the HVDPTF “wiring diagram,” mutually agreed to by the Department of Defense and Department of Justice in the autumn of 2006. Col Morris Davis, Memorandum for the Inspector General of the Department of Defense (Sept. 11, 2007).

- establishment of the High-value Detainee Prosecution Task Force; its composition (including the autumn 2006 wiring diagram); its responsibilities and authorities; and any minutes, or statements or summaries of conclusion produced as a result of its meetings.
- communications between or among the Senior Leadership Oversight Committee, the Special Detainee Follow-up Group, the Joint Detainee Coordinating Committee, JTF-GTMO, and the High-value Detainee Prosecution Task Force between 2006 and 2007 regarding (a) conditions of confinement at Camp 7; or (b) allocation of duties or responsibilities among various U.S. government agencies or interagency structures with respect to so-called high-value detainees like Mr. al Baluchi.

Thank you for your prompt attention to this matter. Please do not hesitate to contact me if you require any clarifications or additional information.

Respectfully submitted,

//s//

Sterling R. Thomas
Lt Col, USAF
Counsel for Mr. al Baluchi