

26 June 2016

**United Nations Committee Against Torture**

c/o Office of the United Nations High Commissioner for Human Rights

Palais des Nations

CH-1211 Geneva 10

SWITZERLAND

*Email: cat@ohchr.org*

Dear Chairman Modvig and Distinguished Members of the United Nations Committee Against Torture,

Today, in observance of this International Day in Support of Victims of Torture and on the 29<sup>th</sup> anniversary of the UN Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment entering into force, we are writing to you with current information on the situation of Mr. Mustafa al-Hawsawi, a victim of CIA torture who remains imprisoned at Guantanamo Bay, Cuba for over a decade despite having yet to be tried by a regularly constituted court in compliance with Common Article 3 of the Geneva Conventions. We hope that this information will assist you in the current formation of your List of Issues Prior to Reporting for the United States Government.

This communication has three parts. First, as background to the questions that we suggest to you, we want to contrast the indisputable facts of Mr. al-Hawsawi's situation to the misleading rhetoric our Government continues to use to deflect your questions. Second, we are attaching a recently obtained, not previously released CIA document that shows Mr. al-Hawsawi was more extensively tortured than our Government previously admitted.<sup>1</sup> This new document clearly reveals that within days of Mr. al-Hawsawi's rendition his ordeal and torture began. Shortly, thereafter, the lead CIA interrogator concluded that Mr. al-Hawsawi was not an individual with significant knowledge of al-Qaeda, and therefore was not "high-value."<sup>2</sup> This information was immediately relayed to CIA headquarters, nevertheless, another round of torture was ordered and thereafter our Government continued to torture him for over three years.<sup>3</sup> Mr. al-Hawsawi has now been isolated for more than a decade at a top secret facility at Guantanamo Bay. Our government has woefully neglected Mr. al-Hawsawi's medical treatment and has completely failed to take any rehabilitative measures. The injuries were sustained because of his torture, and these daily painful reminders of his torture have never been medically remedied. Third, we enclose a simultaneous communication we have made to various UN Special Procedures, which includes more extensive additional up-to-date information on the particular circumstances of Mr. al-Hawsawi.

**Rhetoric vs. Reality**

We would like to comment regarding some specific assertions our Government's representatives made at the United States' review before the Committee Against Torture in November 2014 as well as some sections from the document titled, *One-year Follow-up Response of the United States of America to Recommendations of the Committee Against Torture on its Combined Third to Fifth*

---

<sup>1</sup> Central Intelligence Agency, *Disposition Memorandum: Alleged Use of Unauthorized Interrogation Techniques* ("CIA Disposition Memo") (6 December 2006) [attached to this correspondence].

<sup>2</sup> *CIA Disposition Memo*, pp. 11-12.

<sup>3</sup> *Ibid.*

*Periodic Reports on Implementation of the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment* (“One-Year Follow-Up Response”).<sup>4</sup> The ongoing treatment of Mr. al-Hawsawi clearly demonstrates that either the United States Government’s assertions are mendacious, or, at best, false. Either way, the indisputable facts relating to Mr. al-Hawsawi establish that the information our Government provided to you is simply incorrect: the reality is that the United States Government is in current violation of the Convention Against Torture at Guantanamo Bay, Cuba.

**I. The U.S. Government has delivered the following official statements to you regarding the conditions of confinement including the medical care of Mr. al-Hawsawi:**

**a. Transcript of Former Brigadier General Rich Gross, Legal Counsel to the Chairman of the Joint Chiefs of Staff, Department of Defense speaking to the Committee at the 2014 Review of the USA**

“Mr. Modvig, you also ask about independent medical examinations and issues of medical ethics with regard to detainees. *Detainees at Guantanamo are provided with high quality medical care comparable to that which our own service personnel receive while serving there.* U.S. practice is consistent with principle no. 2 of the non-binding principles of medical ethics. DoD physicians and healthcare personnel charged with providing care to detainees take that responsibility very seriously. [M]ilitary physicians, psychologists and other healthcare personnel are held to the highest standards of ethical care and at no time have been released of their ethical obligations. Permitting non-military medical examinations of detainees would undermine the effectiveness of healthcare delivery; in addition the availability of outside medical examinations could encourage detainees to refuse the care of the Guantanamo medical staff in an attempt to obtain such examinations and to get alternate treatment plans. Nevertheless the Department of Defense has allowed independent non-military medical examinations of Guantanamo detainees on a limited case-by-case basis where circumstances warrant such an exception.”

**b. Section 26 of the United States Government’s One-Year Follow Up Response**

The United States has mechanisms in place to investigate credible allegations of detainee abuse regardless of the location, including at Guantanamo Bay, and to prosecute or take other action against those responsible where warranted. Immediately upon taking office in 2009, President Obama issued Executive Order 13491 on ensuring lawful interrogations, which mandated that, consistent with the Convention Against Torture and Common Article 3 of the 1949 Geneva Conventions, any *individual detained in armed conflict by the United States or within a facility owned, operated, or controlled by the United States, in all circumstances, must be treated humanely, and not be subjected to violence to life and person nor to outrages upon personal dignity. Additionally, the Detainee Treatment Act of 2005 prohibits cruel, inhuman, or degrading treatment or punishment of any “individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location,” codified at 42 U.S.C. § 2000dd. Violations of the Detainee Treatment Act can be charged under existing statutes, such as felonies prosecuted under the United States’ special maritime and territorial jurisdiction.*

**c. Section 28 of the United States Government’s One-Year Follow Up**

*The Department of Defense has required that all its detention operations meet a high standard of humane care and custody, and its policy is to seek continually to exceed, when possible, international standards for conditions of detention. The Department of Defense does not tolerate the abuse of detainees, and credible allegations are thoroughly investigated, and appropriate disciplinary action taken if allegations are substantiated.*

Mr. al-Hawsawi’s situation demonstrates a much different reality from the one advanced in these U.S. Government verbal and written responses. Mr. al-Hawsawi endured brutal treatment

---

<sup>4</sup> CAT/C/USA/CO/3-5/Add.1 (14 January 2016)

during his years of torture by the United States Government, including sodomy, cold water dousing indistinguishable from waterboarding, “walling”<sup>5</sup> and prolonged sleep deprivation.<sup>6</sup> As a result of this torture, Mr. al-Hawsawi sustained serious injuries including a rectal prolapse, anal fissures (tears), chronic protruding hemorrhoids, severe neck and back pain from protruding disks, tinnitus and hearing loss, chronic blood in his urine, and severely altered sleep patterns and insomnia. The magnitude of Mr. al-Hawsawi’s daily suffering is staggering: he has to choose between eating which leads to severely painful defecation (since Mr. al-Hawsawi must manually re-insert his own rectal tissue after defecation) or abstaining to minimize bowel movements but which also leads to a dangerous drop in body weight (Mr. al-Hawsawi fluctuates between 90 and 110 lbs.). He has expelled blood in his urine for almost two years, while the United States Government has failed to perform appropriate tests for the cause of the blood, which has at times been sufficient to be visible to the naked eye. Blood in the urine could signal a cancerous condition and this possibility has not been excluded through adequate testing and diagnostic tools. Mr. al-Hawsawi was also infected with Hepatitis C *after* the CIA forcibly disappeared him and kept him for years in blacksites with deplorable hygienic conditions. In regards to Mr. al-Hawsawi’s Hepatitis C, we can report some positive progress in that Mr. al-Hawsawi did receive a round of Sovaldi which appears to have had a positive effect. However, follow-up testing sufficient to definitively show the treatment was effective remains necessary. These injuries amalgamate and have left Mr. al-Hawsawi a broken man.

The current medical malfeasance that Mr. al-Hawsawi endures does not constitute basic-quality medical care, much less the “high-quality” health care that the former Brigadier General claimed was afforded Guantanamo detainees. Forcing Mr. al-Hawsawi to choose between eating and reinserting his own prolapsed rectum as well as bleeding every time he urinates and not knowing the cause is cruel and inhumane treatment and an outrage upon his personal dignity *par excellence* – even more so when one considers that his conditions are the result of his torture at the hands of his same current captor, the U.S. Government. Mr. al-Hawsawi’s shocking condition and lack of proper medical care clearly violate internationally accepted standards for detention and the Convention Against Torture. The legal fiction of the Detainee Treatment Act of 2005 has no perceptible effect on his mistreatment and there are no inquiries or investigations into who is clearly withholding from him necessary medical treatment. Sections 26 and 28 of our Government’s One-Year Follow-Up were a shameful farce to submit to your Committee.

## **II. The U.S. Government’s own statements to you during the One-Year Follow-Up evince our Government’s full awareness of its obligations under the CAT, and that these obligations extend to Mr. al-Hawsawi.**

### **a. Section 4 of the United States Government’s One-Year Follow Up**

As a preliminary note, we wish to remind the Committee that in preparation for our presentation last November, senior lawyers across the U.S. government considered questions posed by the Committee about important U.S. legal positions with respect to the Convention, and our delegation in November 2014 conveyed a number of changes and clarifications agreed upon in the course of that review process. *The United States affirmed its understanding that where the text of the Convention provides that obligations apply to a State Party in “any territory under its jurisdiction,” such obligations extend to certain places beyond the sovereign territory of the State Party, and more specifically, “territory under its jurisdiction” extends to “all places that the State Party controls as a governmental authority.”*

---

<sup>5</sup> The CIA torture method of “walling” was being collared like an animal and slung into a wall by the neck.

<sup>6</sup> U.S. Senate Select Committee on Intelligence, *Committee Study of the Central Intelligence Agency’s Detention and Interrogation Program* (9 December 2014), available at: <http://www.nytimes.com/interactive/2014/12/09/world/cia-torture-report-document.html>, p. 100, fn. 584; and, p. 102, fn. 600. See also, *CIA Disposition Memo*.

## **b. Section 5 of the United States Government's One-Year Follow Up**

*We have concluded that the United States currently exercises such control at the U.S. Naval Station at Guantanamo Bay, Cuba, and over all proceedings conducted there, and with respect to U.S.-registered ships and aircraft.*

## **c. Section 6 of the United States Government's One-Year Follow Up**

*The delegation also clarified the United States' view that although the law of armed conflict is the controlling body of law with respect to the conduct of hostilities and the protection of war victims, at time of war does not suspend the operation of the Convention, which continues to apply even when a State is engaged in armed conflict. The obligations to prevent torture and cruel, inhuman, and degrading treatment or punishment in the Convention remain applicable in times of armed conflict and are reinforced by complementary prohibitions in the law of armed conflict.*

## **d. Section 9 of the United States Government's One-Year Follow Up**

The decisions following the attacks of September 11, 2001, relating to this former program are part of our history and *are not representative of the way we deal with the threat from terrorism we still face today.* One of the great aspects of our democracy is that we are willing to look at our past, identify where we could and should do better, and make important improvements, which we continue to do.

## **e. Section 10 of the United States Government's One-Year Follow Up**

The United States *upholds the bedrock principle that torture and cruel, inhuman, and degrading treatment or punishment are categorically and legally prohibited always and everywhere,* violate U.S. and international law, and offend human dignity. Torture is contrary to the founding principles of our country and to the universal values to which we hold ourselves and the international community.

Taken together, these statements proffered by the United States Government in Sections 4, 5, 6, 9, and 10 demonstrate that our Government is keenly aware that the treaty obligations arising from the CAT are inalienably applicable and extend to Mr. al-Hawsawi's top secret jail cell. Accordingly, recognizing that no domestic designation of armed conflict or withholding of Geneva Convention status can deprive Mr. al-Hawsawi of his fundamental *jus cogens* rights – particularly the right not to be further tortured. Indeed the United States Government has willingly assumed an expounded self-proclaimed obligation to *prevent* torture and cruel, inhuman, and degrading treatment or punishment. The United States Government places heavy emphasis on its commitment not to torture individuals in the future as a lesson learned from our past horrific international crimes.

Proclaiming to have learned lessons and affirming now what was in fact a pre-existing commitment, not to torture, does not, however, restore the U.S. Government to compliance with the CAT. By failing to provide Mr. al-Hawsawi with rehabilitative treatment for the injuries caused by the torture that the United States itself inflicted upon him, the United States continues to perpetuate the suffering brought about from the original torture. The continuation of suffering from torture is in fact continued torture. Torture through affirmative acts or torture through omission remains torture. When viewed in this undeniable context, our Government's assertions "that we no longer engage in torture," must be summarily dismissed. Only when Mr. al-Hawsawi receives rehabilitation and treatment, will the original torture cease. Mr. al-Hawsawi's continued secret detention in U.S. hands at Guantanamo Bay prolongs the U.S. Government's torture of him, its persistent lack of healing medical treatment for his on-going physical injuries, and its refusal to even recognize the right to rehabilitation, much less afford him that right, are in direct violation of the U.S. Government's CAT obligations. Certainly, such conduct is, at minimum, cruel, unusual, and

degrading treatment or pre-trial punishment – all of which the United States Government itself acknowledges violates U.S. and international law, in addition to offending human dignity and the nation’s founding principles.

### **III. The Right to Rehabilitation Under the CAT is Unquestionable, Even in the U.S. Government’s Own Parlance:**

We are mindful of Article 14(1) of the CAT that unequivocally includes the right to rehabilitation:

Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress[...including the means for as full rehabilitation as possible.<sup>7</sup>

#### **a. Transcript of Robin Jacobson, Associate Deputy Attorney General, US Department of Justice speaking to the Committee at the 2014 Review of the USA**

Finally, Mr. Modvig, we appreciate your recognition of the efforts of the United States to date to help rehabilitate victims of torture. *The Torture Victims Relief Act, originally enacted in 1998, authorizes funding for a number of programs that provide rehabilitation services, including funding for the Department of Health and Human Services and U.S. Agency for International Development to support treatment centers and programs in and outside the U.S., respectively.*

The United States Government goes to great effort to provide rehabilitative services for victims of torture located within the territorial borders of the United States such as refugees and asylum seekers. Our Government also offers generous and extensive rehabilitation services for non-U.S. citizens such conflict survivors located on the fringes of conflict zones. Yet, shamefully, the United States will not provide similar rehabilitative services for *victims of its own CIA torture who are still located in a U.S. prison.*

Bearing the situation of Mr. al-Hawsawi in mind, we propose the following questions for the List of Issues Prior to Reporting:

- i. Please submit documentation of the United States’ policy on providing torture rehabilitation to victims of the CIA Rendition, Detention, and Interrogation program.
- ii. Please submit documentation on rehabilitation programs, if such programs exist, for torture survivors still being detained at Guantanamo Bay prison to address the physical and psychological effects of torture
- iii. Please make available, although leaving out precise personal identifying information, specific “torture rehabilitation” efforts (as distinct from general medical care) for victims of the CIA Rendition, Detention, and Interrogation program, particularly those individuals still in captivity at Guantanamo Bay, such as Mustafa al-Hawsawi.

As your Committee develops its List of Issues Prior to Reporting for the upcoming review cycle of the United States of America, we believe you should study, rely upon, and highlight Mr. al-Hawsawi’s case as a demonstrative example of the United States’ abject disregard of its treaty obligations, with no mitigating pretext whatsoever. Mr. al-Hawsawi is the embodiment of the United States Government behaving with impunity in relation to the CAT. Mr. al-Hawsawi is literally living

---

<sup>7</sup> See also, Committee Against Torture, *General Comment No. 3*, CAT/C/GC/3 (2012).

proof that the obligations resulting from the CAT are not being kept at Guantanamo Bay and that torture continues within its top secret walls despite our government's assertions to the contrary.

In particular, we ask you to remind the United States Government in your correspondence that:

a. Failure to meaningfully rehabilitate Mr. al-Hawsawi which includes adequate medical care for the injuries he sustained a result of torture perpetuates the original CIA torture, although now the torture is simply prolonged by a different Government agency, namely the United States Department of Defense;

b. Torture is an international crime punishable in all global jurisdictions and without a statute of limitation.

As stated earlier, we attach a recently released CIA document demonstrating that Mr. al-Hawsawi endured even more intensive torture than originally made known in the 2014 Senate Torture Report. We also include our recent letter to various UN Special Procedures.

Please do not hesitate to contact us for more information on the situation of Mr. al-Hawsawi; we will answer as best we can under the restrictions the U.S. Government imposes on us as his defense counsel.

Sincerely,

Walter B. Ruiz, Esq  
*Civilian Learned Counsel for Mr. al-Hawsawi*

Lieutenant Colonel Sean M. Gleason, USMC, JAG  
*Detailed Military Counsel for Mr. al-Hawsawi*

Suzanne M. Lachelier, Esq.  
*Detailed Civilian Counsel for Mr. al-Hawsawi*

Lieutenant Colonel Jennifer N. Williams, USA, JAG  
*Assistant Detailed Military Counsel for Mr. al-Hawsawi*

Mitch Robinson, Ph.D  
*International Law Specialist for Mr. al-Hawsawi*

~~TOP SECRET~~ (b)(1) ~~NOFORN//MR~~  
(b)(3) NatSecAct

6 December 2006

### DISPOSITION MEMORANDUM

**SUBJECT:** ~~(S)~~ Alleged Use of Unauthorized Interrogation Techniques

**CASE:** 2004-7604-IG (b)(1) (b)(3) CIAAct (b)(3) NatSecAct (b)(6) (b)(7)(c) (b)(7)(d)

#### ISSUES UNDER INVESTIGATION:

1. ~~(S//NF)~~ On [ ] May 2004, the [ ] Legal Group, Counterterrorist Center (CTC/LGL), referred allegations to the Office of Inspector General (OIG) that were made by detainee Mustafa al-Hawsawi during a debriefing by Interrogator [ ]. The referral attached [ ] Lotus Note detailing Hawsawi's allegations. Hawsawi alleges that the enhanced interrogation technique (EIT) waterboarding was used on him. Also attached to the referral letter was a chart that listed the Agency officers who had contact with Hawsawi in March and April 2003, and seven cables from [ ] and Headquarters concerning the interrogation of Hawsawi. (b)(1) (b)(3) NatSecAct

2. ~~(S//NF)~~ The referral letter identified chief interrogator [ ] and interrogator [ ] (separated from CIA employment) as the officers who were primarily involved in the interrogation of Hawsawi. However, the seven cables concern the interrogation of Hawsawi by interrogators [ ] and [ ]

(b)(1) (b)(3) CIAAct (b)(3) NatSecAct (b)(6) (b)(7)(c) (b)(7)(f)

(b)(3) CIAAct (b)(3) NatSecAct

[ ]

~~TOP SECRET~~ (b)(1) ~~NOFORN//MR~~  
(b)(3) NatSecAct

~~TOP SECRET~~ (b)(1) ~~NOFORN//MR~~  
(b)(3) NatSecAct

3. (U) The allegation, if true, could be in violation of Title 18 US Code § 18 U.S.C. 2340A Torture.

**INVESTIGATIVE EFFORTS:**

(b)(1)  
(b)(3) NatSecAct

4. ~~(TS//NF)~~ (b)(1) ~~NOFORN//MR~~ (b)(3) NatSecAct  
OIG reviewed relevant documents. Agency policy and guidelines on the use of interrogation techniques were reviewed. The Directorate for Operations (DO) (now known as the National Clandestine Service (NCS)) provided cables concerning the detention and interrogation of Hawsawi at an Agency detention and interrogation facility called (b)(1) Relevant Lotus Notes concerning Hawsawi and water dousing were received from CTC/LGL, CTC/Renditions and Detainees Group (RDG), and the Office of Medical Services (OMS). OIG reviewed Security and Personnel folders for (b)(1) Agency personnel who had contact with Hawsawi. (b)(3) CIAAct (b)(3) CIAAct (b)(3) NatSecAct (b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct

5. ~~(TS//NF)~~ (b)(1) ~~NOFORN//MR~~ (b)(3) NatSecAct  
OIG conducted interviews with (b)(1) Agency employees and contractors who had information concerning the detention and interrogation of Hawsawi at (b)(1)

(b)(1)  
(b)(3) NatSecAct

6. ~~(S)~~ On 13 July 2004, OIG reported this incident as a possible violation of federal criminal law to (b)(1) Chief, Criminal (b)(6) Division, US Attorney's Office, Eastern District of Virginia. Assistant (b)(7)(c) US Attorney (b)(1) has been continually apprised of the progress of this investigation.

(b)(6)  
(b)(7)(c)

**POLICY AND GUIDELINES:** (b)(3) CIAAct

7. ~~(S//NF)~~ DO Handbook 50-2 (b)(1) explains the Agency's general interrogation policy:

It is CIA policy to neither participate directly in nor encourage interrogation that involves the use of force, mental or physical torture, extremely demeaning indignities or exposure to inhumane treatment of any kind as an aid to interrogation. (b)(1)

(b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct

~~TOP SECRET~~ (b)(1) ~~NOFORN//MR~~  
(b)(3) NatSecAct



~~TOP SECRET~~ (b)(1) ~~NOFORN//MR~~  
(b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct  
(b)(1)  
(b)(3) NatSecAct

8. ~~(TS//NF)~~ (b)(1) According to the Inspector General's Special Review, the capture and initial Agency interrogation of the high value detainees (HVDs) presented the Agency with a significant dilemma.<sup>1</sup> The Agency was under pressure to do everything possible to prevent additional terrorist attacks. Agency officials believed that a more robust approach was necessary to elicit threat information from senior Al-Qa'ida HVDs. With the knowledge that Al-Qa'ida personnel had been trained in the use of resistance techniques, another challenge was to identify interrogation techniques that Agency personnel could lawfully use to overcome the resistance.

(b)(1)  
(b)(3) NatSecAct  
9. ~~(TS//NF)~~ (b)(1) The Office of General Counsel (OGC) consulted extensively with Department of Justice (DoJ) and National Security Council (NSC) legal and policy staff in determining and documenting the legal parameters and constraints for interrogations. In August 2002, DoJ's Office of Legal Counsel (OLC) provided to the Agency a legal opinion in which it determined that 10 specific EITs would not violate the torture prohibition. The DCI on 28 January 2003 signed "Guidelines on Interrogations Conducted Pursuant to the Presidential Memorandum of Notification of 17 September 2001."

The DCI Guidelines were sent to (b)(3) CIAAct Station in cable (b)(3) CIAAct on January 2003, and therefore, were applicable during (b)(1) Hawsawi's detention at (b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct  
10. ~~(TS//NF)~~ (b)(1) The DCI Interrogation Guidelines define "Permissible Interrogation Techniques" and specify that "unless otherwise approved by Headquarters, CIA officers and other personnel acting on behalf of CIA may use only Permissible Interrogation Techniques. Permissible Interrogation Techniques consist of both (a) Standard Techniques and (b) Enhanced Techniques." EITs require advance approval from Headquarters, as

1 ~~(TS//NF)~~ (b)(1) Counterterrorism Detention and Interrogation Activities (September 2001–October 2003) (2003-7123-IG) dated 7 May 2004.

(b)(1)  
(b)(3) NatSecAct  
~~TOP SECRET~~ (b)(1) ~~NOFORN//MR~~  
(b)(3) NatSecAct

~~TOP SECRET~~ (b)(1) ~~NOFORN//MR~~  
(b)(3) NatSecAct

do standard techniques whenever feasible. The field was required to document the use of both standard techniques and EITs.

(b)(1)  
(b)(3) NatSecAct

11. ~~(TS/~~ [redacted] ~~NF)~~ The DCI Interrogation Guidelines define "standard interrogation techniques" as techniques that do not incorporate significant physical or psychological pressure. These techniques include, but are not limited to, all lawful forms of questioning employed by US law enforcement and military interrogation personnel. Whenever feasible, advanced approval was required for the use of standard techniques by an interrogation team. In all instances; their use shall be documented in cable traffic.

(b)(1)  
(b)(3) NatSecAct

12. ~~(TS/~~ [redacted] ~~NF)~~ The DCI Interrogation Guidelines defined EITs as "techniques that do incorporate physical or psychological pressure beyond Standard Techniques." Headquarters must approve the use of each specific EIT in advance. EITs may be employed only by trained and certified interrogators for use with a specific detainee and with appropriate medical and psychological monitoring of the process.<sup>2</sup>

(b)(1)  
(b)(3) NatSecAct

13. ~~(TS/~~ [redacted] ~~NF)~~ The EITs are, the attention grasp, walling, the facial hold (insult hold), the abdominal slap, cramped confinement, wall standing, stress positions, sleep deprivation beyond 72 hours, the use of diapers for prolonged periods, the use of harmless insects, the waterboard, and such other techniques as may be specifically approved. The use of each EIT is subject to specific temporal, physical, and related conditions, including a competent evaluation of the medical and psychological state of the detainee.

(b)(1)  
(b)(3) NatSecAct

14. ~~(TS/~~ [redacted] ~~NF)~~ Prior approval in writing either by written memorandum or in cable traffic from the Director CTC, with the concurrence of the Chief, CTC Legal Group, is required for the use of any EIT(s). In each interrogation session in which an EIT is

<sup>2</sup> ~~(TS/~~ [redacted] ~~NF)~~ Before EITs are administered, a detainee must receive a detailed psychological assessment and physical exam. Daily physical and psychological evaluations are continued throughout the period of EIT use.

~~TOP SECRET~~ (b)(1) ~~NOFORN//MR~~  
(b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct

~~TOP SECRET~~ (b)(1) ~~NOFORN//MR~~  
(b)(3) NatSecAct

employed, a contemporaneous record shall be created setting forth the nature and duration of each such technique employed, the identities of those present, and a citation to the required Headquarters approval cable. This information in the form of a cable shall be provided to Headquarters.

(b)(1)  
(b)(3) NatSecAct

15. ~~(TS/~~ [redacted] ~~NF)~~ Relevant to this investigation in particular are the techniques of walling, waterboarding and water dousing. As stated in the DCI Interrogation Guidelines above, walling and waterboard are EITs. Prior to walling a rolled towel is placed around the detainee's neck for support to prevent whiplash. During the walling technique, the detainee is pulled forward and then quickly and firmly pushed into a flexible false wall so that his shoulder blades hit the wall.

(b)(1)  
(b)(3) NatSecAct

16. ~~(TS/~~ [redacted] ~~NF)~~ The application of the waterboard technique involves binding the detainee to a bench with his feet elevated above his head. The detainee's head is immobilized and an interrogator places a cloth over the detainee's mouth and nose while pouring water onto the cloth in a controlled manner. Airflow is restricted for 20 to 40 seconds and the technique produces the sensation of drowning and suffocation. The waterboard is a level two EIT that required special authorization to be used from the Director of the Directorate of Operations (DDO) and the D/CTC.

(b)(1)  
(b)(3) NatSecAct

17. ~~(TS/~~ [redacted] ~~NF)~~ Water dousing was used at [redacted] since early 2003. Water dousing involves laying a detainee down on a plastic sheet and pouring water over him for 10 to 15 minutes while the interrogator questions the detainee. The January 2003 DCI Interrogation Guidelines did not address water dousing as a standard or enhanced technique.<sup>3</sup> Some interrogators

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(5)

~~TOP SECRET~~ (b)(1) ~~NOFORN//MR~~  
(b)(3) NatSecAct

~~TOP SECRET~~ (b)(1) ~~NOFORN//MR~~ (b)(1)  
(b)(3) NatSecAct (b)(3) NatSecAct

considered water dousing a standard level technique at that time, although several cables requesting Headquarters approval for EITs also requested approval for water dousing. The standard was clarified in [redacted] cable [redacted] dated [redacted] June 2003, specifying that the application of water dousing does not constitute an EIT.<sup>4</sup> Also, the September 2003 draft OMS Guidelines identified water dousing as a standard technique. The Office of General Counsel "re-defined" water dousing as an EIT in Headquarters cable [redacted] sent to (b)(1) on [redacted] January 2004. (b)(3) NatSecAct (b)(3) CIAAct (b)(3) NatSecAct

**THE ALLEGATIONS:**

18. ~~(S//NF)~~ In his Lotus Note to RDG and CTC/LGL (Copy attached as an exhibit), [redacted] reported that Hawsawi described being strapped on a rotating table made of wood with a bed of shiny metal and his head was tilted in the down position. Hawsawi said several bottles of water were poured on his chest so that the water ran into his face and nose and he thought he was drowning. He said he was put on the table many times during that interrogation period, with multiple bottles of water each time. Hawsawi initially said [redacted] (b)(3) CIAAct masked individuals were involved. He later said there were [redacted] individuals. Hawsawi described the individual pouring the water as tall and thin and speaking English. Hawsawi said he could not identify them because they were always masked, even when walling and questioning him.

[redacted] (b)(5)  
(b)(3) CIAAct

<sup>4</sup>~~(S//NF)~~ [redacted] reports in part, "In a correction of the record, Headquarters notes that under a controlled environment and standard procedures for dousing, the application of dousing does not constitute an enhanced measure, but does require detailed and timely notification of its use in the interrogation reports, as required for other standard techniques."

6  
~~TOP SECRET~~ (b)(1) ~~NOFORN//MR~~  
(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)  
(b)(7)(f)

~~TOP SECRET~~ (b)(1) ~~NOFORN//MR~~  
(b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct

19. ~~(TS/~~ [redacted] ~~/NF)~~ Hawsawi reportedly informed [redacted] that this waterboard session was not done during the first interrogations when he arrived at [redacted] nor did it happen at his last series of interrogations. Hawsawi said it was "the one in the middle" and at the same time "the men used the collar," for walling.

(b)(1)  
(b)(3) NatSecAct

[Large redacted area]

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)  
(b)(7)(d)  
(b)(7)(f)

~~TOP SECRET~~ (b)(1) ~~NOFORN//MR~~  
(b)(3) NatSecAct

~~TOP SECRET~~ (b)(1) ~~NOFORN//MR~~

(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(5)  
(b)(6)  
(b)(7)(c)  
(b)(7)(d)  
(b)(7)(f)

~~TOP SECRET~~ (b)(1) ~~NOFORN//MR~~

(b)(3) NatSecAct

~~TOP SECRET~~ (b)(1) ~~NOFORN//MR~~  
(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)  
(b)(7)(d)  
(b)(7)(f)

**FINDINGS:**

(b)(1)  
(b)(3) NatSecAct

27. ~~(TS//NF)~~ ~~(b)(1)~~ ~~(b)(3) NatSecAct~~ Hawsawi was an Al-Qa'ida financier who reportedly handled the transfer of funds to the 9/11 hijackers. He was a close associate of Khalid Shaykh Muhammad (KSM) and was captured with KSM in Pakistan. On March 2003, Hawsawi and KSM were rendered to ~~(b)(1)~~ ~~(b)(3) NatSecAct~~ and incarcerated at ~~(b)(1)~~ ~~(b)(3) NatSecAct~~ a detention, debriefing, and interrogation facility for high and medium value detainees. ~~(b)(1)~~ ~~(b)(3) NatSecAct~~ consisted of 20 individual concrete structures used as cells, three interrogation rooms, a staff room, a guardroom and a conditioning room that was used for water dousing. Hawsawi remained in ~~(b)(1)~~ ~~(b)(3) NatSecAct~~ until November 2003, when he was rendered to another location.

28. ~~(TS//NF)~~ ~~(b)(1)~~ ~~(b)(3) NatSecAct~~ Cables concerning the interrogations and debriefings of Hawsawi indicate that EITs were requested and-in turn - authorized for Hawsawi on three separate occasions. The first time EITs were authorized was on March 2003, when Hawsawi arrived at ~~(b)(1)~~ ~~(b)(3) NatSecAct~~ and was interrogated by ~~(b)(1)~~ ~~(b)(3) NatSecAct~~

~~TOP SECRET~~ (b)(1) ~~NOFORN//MR~~  
(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)  
(b)(7)(f)

~~TOP SECRET~~ (b)(1) ~~NOFORN//MR~~  
(b)(3) NatSecAct

The second time was in April 2003, when [redacted] and [redacted] interrogated Hawsawi. The third and last time EITs were authorized was in May 2003 when [redacted] was at [redacted] with several newly trained interrogators in the process of being certified.

(b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct

29. ~~(TS// [redacted] /NF)~~ There is no indication that the waterboard was requested or authorized for Hawsawi during March, April and May 2003. The waterboard, being a level two EIT, required special authorization from the Deputy Director for Operations and the D/CTC to be used.

[redacted] However, only three interrogators were certified to use the waterboard at that time and it had been authorized for use on only three detainees at locations other than [redacted]

(b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct

30. ~~(TS// [redacted] /NF)~~ When Hawsawi arrived at [redacted] or [redacted] March 2003, the personnel participating in Hawsawi's interrogation consisted of [redacted]

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)  
(b)(7)(f)

[redacted] Headquarters conditionally approved the use of EITs by [redacted] without [redacted] sending a cable requesting authorization.<sup>6</sup> The use of the waterboard or water dousing was not addressed in the cable.

(b)(1)  
(b)(3) NatSecAct

31. ~~(TS// [redacted] /NF)~~ Cables indicate that [redacted] did not initiate EITs until [redacted] March 2003. [redacted] assisted [redacted] Under [redacted] direction, the facial slap, stomach slap, forehead against the wall and kneeling position EITs were used. Hawsawi was also given "a bath."

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)  
(b)(7)(f)

<sup>6</sup> ~~(TS// [redacted] /NF)~~ [redacted] Mar 03, cites, in part [redacted] [redacted] has conditional approval to use the following enhanced techniques with ((Al-Hawsawi))..." [redacted] recalls that headquarters issued a conditional approval without a request from an interrogator to commence using EITs upon arrival of KSM and Hawsawi.

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

(b)(3) CIAAct  
(b)(6)  
(b)(7)(c)  
(b)(7)(d)

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(7)(c)  
(b)(7)(f)

[redacted]  
~~TOP SECRET~~ (b)(1) ~~NOFORN//MR~~  
(b)(3) NatSecAct



~~TOP SECRET~~ (b)(1) ~~NOFORN//MR~~  
(b)(3) NatSecAct

[redacted] and [redacted] took advantage of the bath time to question Hawsawi while the guards were bathing him. Hawsawi exhibited the expected reactions of displeasure and discomfort with the bath.

32. ~~(TS/~~ [redacted] ~~/NF)~~ [redacted] said the "bath" described in the cable was, in practice, water dousing. He said they put a blue tarp on the floor and laid Hawsawi down on it. They then poured cups of water on Hawsawi. Hawsawi was uncomfortable with it but did not yell or scream.

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)  
(b)(7)(d)

[redacted]  
(b)(1) (b)(3) CIAAct  
(b)(3) NatSecAct (b)(3) NatSecAct

33. ~~(TS/~~ [redacted] ~~/NF)~~ With one exception, [redacted] witnesses said the waterboard was not used on either Hawsawi or KSM during this time. In fact, they said to their knowledge the waterboard was never used at [redacted] [redacted] was the one exception.

(b)(1)  
(b)(3) NatSecAct

[redacted]  
(b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)  
(b)(7)(d)  
(b)(7)(f)

34. ~~(TS/~~ [redacted] ~~/NF)~~ The other witnesses did not support [redacted] recollection.

[redacted]  
(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)  
(b)(7)(d)  
(b)(7)(f)  
(b)(1)  
(b)(3) NatSecAct

35. ~~(TS/~~ [redacted] ~~/NF)~~ After conducting EITs on Hawsawi, [redacted] sent a cable to Headquarters with the conclusion that Hawsawi

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

11  
[redacted]  
~~TOP SECRET~~ (b)(1) ~~NOFORN//MR~~  
(b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct

~~TOP SECRET~~ [redacted] ~~NOFORN//MR~~

was not a HVD with a significant role in Al-Qa'ida. [redacted] departed [redacted] on [redacted] March 2003, leaving [redacted]

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)  
(b)(7)(d)  
(b)(7)(f)

[redacted] in charge of the interrogation of Hawsawi. Consequently, [redacted] was not authorized to use EITs. Working with [redacted] during this period of time was subject matter expert [redacted] [redacted] They said [redacted] did not use EITs during this period of time.

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)  
(b)(7)(d)  
(b)(7)(f)

36. ~~(TS//NF)~~ [redacted]

[redacted] When Hawsawi became compliant, they returned to debriefing sessions.

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)  
(b)(7)(f)

(b)(1)  
(b)(3) NatSecAct

37. ~~(TS//NF)~~ [redacted] The second session of EITs for Hawsawi began to develop when [redacted] arrived in [redacted] on [redacted] March and [redacted] March 2003, respectively. Working with [redacted] during the session were [redacted]

(b)(1)  
(b)(3) NatSecAct

[redacted]

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)  
(b)(7)(d)  
(b)(7)(f)

(b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)  
(b)(7)(f)

39. ~~(S//NF)~~ On [redacted] March 2003, [redacted] observed [redacted] debriefing Hawsawi and concluded that Hawsawi was

~~TOP SECRET~~ (b)(1) [redacted] ~~NOFORN//MR~~  
(b)(3) NatSecAct

~~TOP SECRET~~ (b)(1) ~~NOFORN//MR~~  
(b)(3) NatSecAct

withholding information.<sup>7</sup> They then established control and initiated their interrogation process. [redacted] said he used the least coercive means, beginning with standard techniques and worked up.

[redacted] documented his progress. [redacted] cables [redacted] (b)(3) CIAAct (b)(1) (b)(3) NatSecAct (b)(3) NatSecAct

40. ~~(TS//NF)~~ [redacted] On 4 April 2003, [redacted] requested Headquarters authorization to use EITs on Hawsawi.<sup>8</sup> He requested approval for the use of sleep deprivation and water dousing, and the use of EITs facial slap, facial hold, belly slap, attention grasp, stress positions, cramped confinement and walling. Headquarters approved the request on the same day. (b)(1) (b)(3) NatSecAct

41. ~~(TS//NF)~~ [redacted] On 6 April 2003, [redacted] and [redacted] subjected Hawsawi to EITs lasting 14 non-stop hours. They confronted him with continuous rotational sessions of water-dousing, walling, attention grasps, facial holds, cramped confinement and psychological pressures.<sup>9</sup>

[redacted] (b)(1) (b)(3) CIAAct (b)(3) NatSecAct (b)(6) (b)(7)(c) (b)(7)(d) (b)(7)(f)

(b)(1) (b)(3) NatSecAct

(b)(3) CIAAct

<sup>7</sup> ~~(S)~~ [redacted] cable [redacted] dated 2 April 2003

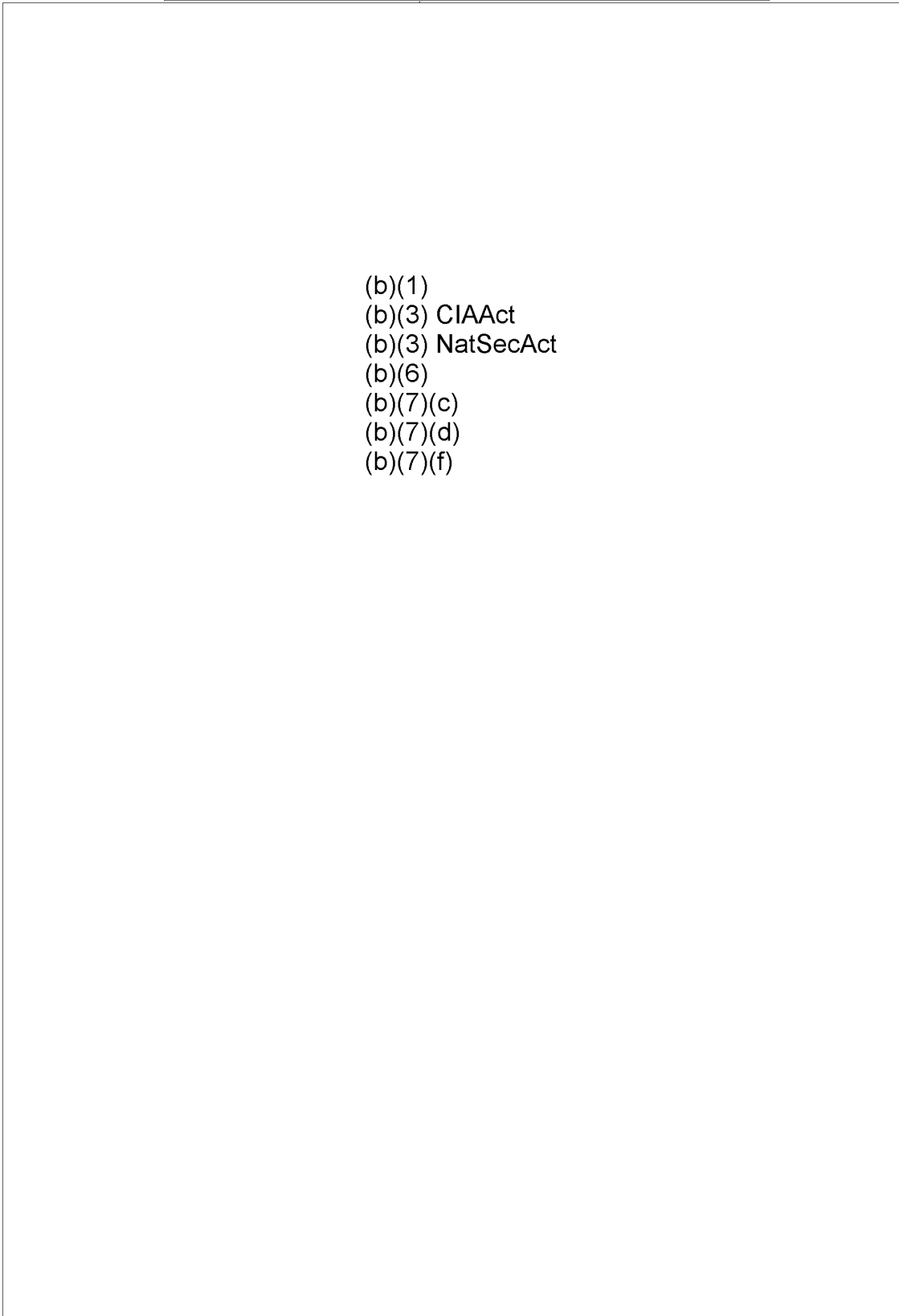
<sup>8</sup> ~~(S)~~ [redacted] cable [redacted] dated 4 April 2003. It is noted that the waterboard was neither requested nor approved.

<sup>9</sup> ~~(S//NF)~~ The use of EITs on Hawsawi on 6 April 2003 is documented in [redacted] cable [redacted] dated 8 April 2003.

(b)(3) CIAAct [redacted] (b)(1) (b)(3) NatSecAct

~~TOP SECRET~~ (b)(1) ~~NOFORN//MR~~  
(b)(3) NatSecAct

~~TOP SECRET~~ [redacted] ~~/NOFORN//MR~~

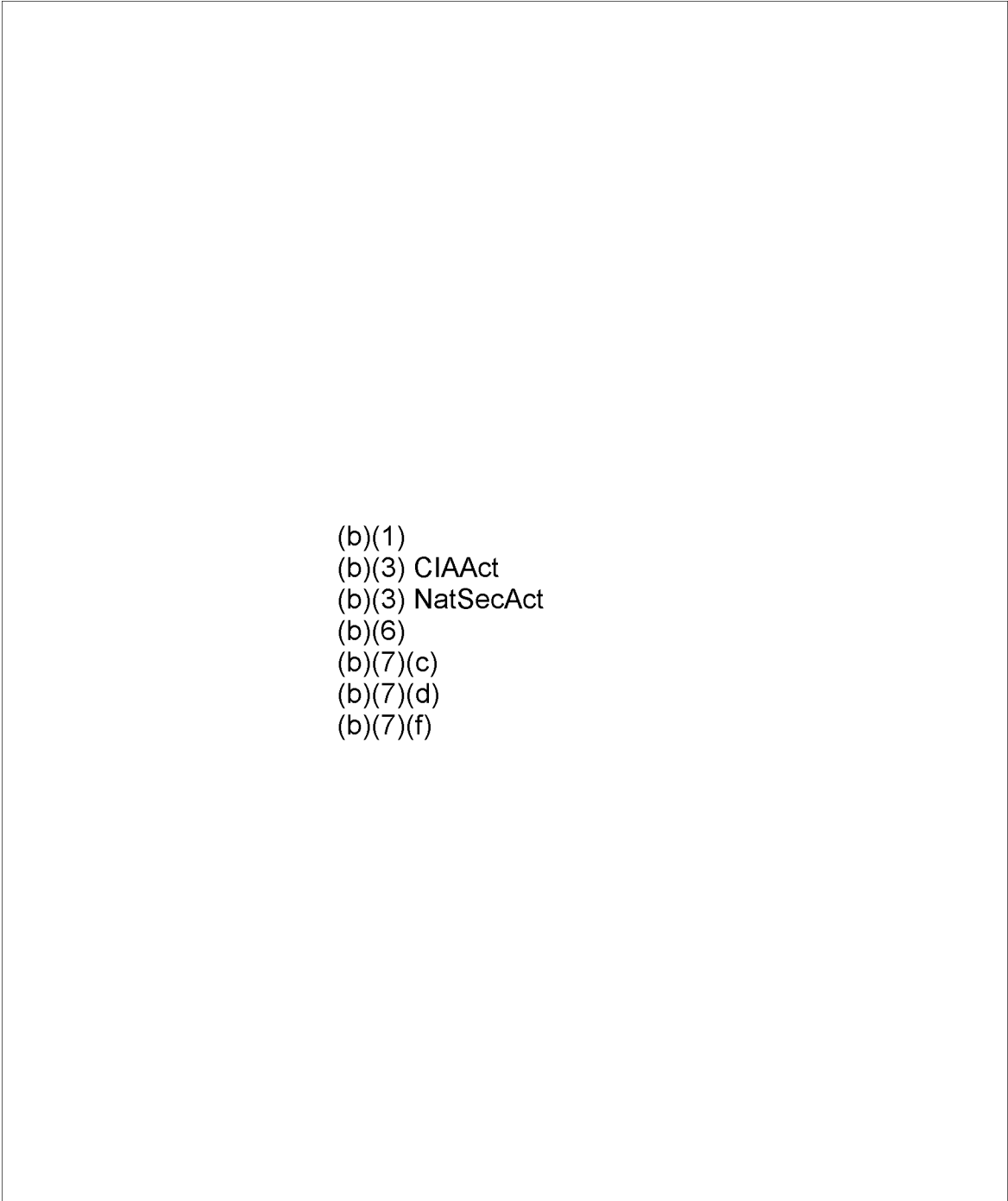


(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)  
(b)(7)(d)  
(b)(7)(f)

~~TOP SECRET~~ [redacted] ~~/NOFORN//MR~~

(b)(1) [redacted]  
(b)(3) NatSecAct

~~TOP SECRET~~ (b)(1) ~~NOFORN//MR~~  
(b)(3) NatSecAct



(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)  
(b)(7)(d)  
(b)(7)(f)

50. ~~(S//NF)~~ Following the 14-hour session, Hawsawi shed his resistance and said he was willing to cooperate.<sup>10</sup> During the first

<sup>10</sup> ~~(S//NF)~~ [redacted] Apr 2003

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

[redacted]  
~~TOP SECRET~~ (b)(1) ~~NOFORN//MR~~  
(b)(3) NatSecAct

~~TOP SECRET~~ (b)(1) ~~NOFORN//MR~~  
(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)  
(b)(7)(f)  
debriefing session after EITs Hawsawi requested to speak to [redacted] Hawsawi, without prompting, reaffirmed his commitment to cooperate and thanked [redacted] and the interrogation team for keeping their promise to treat him properly when he decided to cooperate.

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)  
(b)(7)(f)  
51. (S//NF) [redacted] maintained a presence during the next few sessions with debriefers to ensure that Hawsawi did not regress before they moved on to other detainees. Debriefings of Hawsawi continued with [redacted] and eventually [redacted]

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)  
(b)(7)(f)  
52. (S//NF) Hawsawi remained cooperative and compliant until 7 May 2003, when [redacted] notified [redacted] that Hawsawi was no longer cooperating. This led to the third and final interrogation session with Hawsawi. [redacted] who had recently [redacted] (b)(6)  
(b)(7)(c) [redacted] sent a cable to Headquarters requesting authorization to use EITs on Hawsawi and to supervise [redacted] in the use of EITs. Headquarters denied [redacted] request and instructed him to [redacted] (b)(1) until [redacted] arrived to [redacted] (b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)  
53. (S//NF) When [redacted] arrived on [redacted] May 2003, he sent a cable to Headquarters requesting approval to use EITs on Hawsawi. He was interrogated on the same day but EITs were not used because Headquarters did not provide approval until the following day. While no EITs were used, [redacted] gave Hawsawi "a bath for sanitation purposes" and commenced standing sleep deprivation.

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)  
54. (S//NF) On 12 May 2003, Hawsawi experienced a three-hour interrogation session with [redacted] without the use of EITs.<sup>11</sup> The session was designed to bring Hawsawi back to a cooperative state and into the debriefing mode with CTC [redacted] analysts for further questioning without the use of EITs. Hawsawi

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
<sup>11</sup> (S//NF) The 12 May 2003 interrogation session is documented in (b)(1) cable [redacted] dated 15 May 03. (b)(3) NatSecAct

(b)(3) CIAAct

~~TOP SECRET~~ [redacted] ~~NOFORN//MR~~

(b)(1)  
(b)(3) NatSecAct

~~TOP SECRET~~ (b)(1) (b)(3) NatSecAct ~~NOFORN//MR~~

was sufficiently cooperative during the session. As a result, he was returned to the debriefing mode and EITs were not used on him again.

(b)(1)  
(b)(3) NatSecAct

55. ~~(TS//NF)~~

[Redacted] (b)(1) (b)(3) NatSecAct  
[Redacted] were all working at [Redacted]

with [Redacted] during this time. They said that the waterboard was not used on Hawsawi or any other detainee. Some said Hawsawi quickly became compliant and there was no reason to use the waterboard or other EITs on him. They said waterboard was located in the back of the conditioning room collecting dust and used by the analysts to sit on or lean on during water dousing.

[Redacted]

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)  
(b)(7)(d)  
(b)(7)(f)

(b)(1)  
**CONCLUSIONS:** (b)(3) NatSecAct (b)(3) CIAAct (b)(3) NatSecAct

57. ~~(TS//NF)~~ [Redacted] / ~~(NF)~~ [Redacted] Agency personnel who were at [Redacted] during various times from March to May 2003. They confirmed that a waterboard was located in the conditioning room at [Redacted] With one exception, all denied any knowledge that the waterboard was ever used on Hawsawi. In fact,

(b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct

~~TOP SECRET~~ (b)(1) (b)(3) NatSecAct ~~NOFORN//MR~~

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)  
(b)(7)(f)

(b)(1)  
~~TOP SECRET~~ (b)(3) NatSecAct ~~NOFORN//MR~~

with the exception of [redacted] each witness said they have no (b)(1) knowledge that the waterboard was ever used at [redacted] (b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct  
(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)  
(b)(7)(d)  
(b)(7)(f)

58. ~~(TS/ [redacted] /NF)~~ [redacted] recalled that [redacted] used the waterboard on either Hawsawi or KSM in March and that several personnel witnessed this usage. No one corroborated [redacted] recollection. Furthermore, Hawsawi claimed he was placed on the waterboard during the interrogations "in the middle" which would have been in April 2003. (b)(1) (b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)  
(b)(7)(f)

59. ~~(TS/ [redacted] /NF)~~ Based on the evidence available concerning the possible use of the waterboard on Hawsawi, it is likely that Hawsawi is referring to the water dousing sessions performed by [redacted] during the 14-hour interrogation session that took place on 6 April 2003. [redacted] fits the description provided by Hawsawi of the [redacted] interrogator who spoke English. These interrogations took place as Hawsawi says, "in the middle" when walling was used and a collar was placed around Hawsawi's neck. [redacted] as well as the witnesses, indicates Hawsawi did not like water dousing. Based on the available evidence [redacted] administered water dousing on Hawsawi in the Agency authorized matter.<sup>12</sup> (b)(6) (b)(7)(c)

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)  
(b)(7)(f)

60. ~~(S//NF)~~ There is no corroboration that [redacted] used the waterboard, as Hawsawi claims. Hawsawi saw the waterboard in the conditioning room when [redacted] drew his attention to it. Hawsawi could have embellished the water dousing session by saying he was placed on the waterboard. There is no evidence to support a conclusion that [redacted] would have used the waterboard and then conspired to deny using it.

(b)(3) CIAAct (b)(3) CIAAct  
12 (U [redacted]) The prescribed manner is described in [redacted], dated [redacted] March 2003.

(b)(3) NatSecAct

TOP SECRET (b)(1) ~~NOFORN//MR~~  
(b)(3) NatSecAct



~~TOP SECRET~~ (b)(1) ~~NOFORN//MR~~  
(b)(3) NatSecAct

(b)(6)  
(b)(7)(c)

61. (S) Assistant U.S. Attorney [redacted] has been apprised of the progress of this investigation and has reviewed this report. In a Letter of Declination, dated 5 December 2006, he advised that they have concluded that there is insufficient evidence to warrant a criminal prosecution in this matter.

(b)(3) CIAAct  
(b)(6)  
(b)(7)(c)

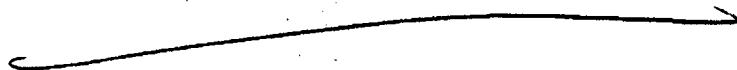
Special Agent

(b)(3) CIAAct  
(b)(6)  
(b)(7)(c)

Supervisory Special Agent

10  
~~TOP SECRET~~ (b)(1) ~~NOFORN//MR~~  
(b)(3) NatSecAct

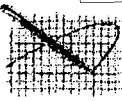
Exhibit 1



(b)(3) CIAAct  
(b)(6)  
(b)(7)(c)  
(b)(7)(f)

~~TOP SECRET//XI~~

(b)(3) CIAAct  
(b)(3) NatSecAct



21 November 2003

To:

cc:

Subject: Al-Hawsawi Incident

(b)(3) CIAAct  
(b)(6)  
(b)(7)(c)

Reference:

During a debriefing session about three weeks ago with MUHAMMAD ADNAN AKA MUSTAFA AL-HAWSAWI AKA HASHIM 'ABD AL-RAHMAN, I told him to tell the truth or he could go back to the "hard times." He made a comment that he did not want to go back, because of the water. He explained to [redacted] and me a process that sounded like more than water dousing.

(b)(3) CIAAct  
(b)(6)  
(b)(7)(c)

[Large redacted block containing several lines of text, mostly obscured by (b)(1), (b)(3) CIAAct, and (b)(3) NatSecAct.]

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

[redacted] and I later asked him more questions, and al-Hawsawi said the water was not poured directly in his face but on his chest so that it ran into his face and nose, because he was head down on the table. He then said he thought there might have been only two people, both masked, and that only the one pouring said anything, and he spoke English. He said he could not identify anyone, because they were always masked when they were interrogating him, even when walling and questioning him. He said the water incident did not happen at the first interrogations when he arrived at [redacted] nor did it happen at his last series of interrogations. When he described his several series of interrogations, I understood him to be describing what we call interrogations with enhanced measures, and a cursory review of the cable traffic indicates he was authorized enhanced measures on several occasions. Again, he was not sure when it was done, but thought it was "the one in the middle" and said it was done at the same time "the men used the collar," describing the walling neck collar, and that the interrogators always wore masks. He said he was put on the table many times during that interrogation period, with multiple bottles of water each time.

(b)(6)  
(b)(7)(c)  
(b)(7)(f)

(b)(1)  
(b)(3) NatSecAct

We did not make a big deal of this, and Al-Hawsawi seemed fearful to talk about it. I told him at the start that he had to explain it to us so we "could learn what had worked with him."

We note that Al-Hawsawi's story changed between the first and second tellings. I cannot explain that, except to say that he seemed fearful, from the first, to talk about it. Regardless of how his story changed, he was consistent that he was put on the table, head down, and water ran into his nose so he could not breathe.

We did not prompt Al-Hawsawi - he described the process and the table on his own. As you know, I have serious reservations about watering them in a prone position because if not done with care, the net effect can approach the effect of the water board. If one is held down on his back, on the table or on the floor, with water poured in his face I think it goes beyond dousing and the effect, to the recipient, could be indistinguishable from the water board.

~~TOP SECRET//XI~~

~~TOP SECRET//X1~~

I have real problems with putting one of them on the water board for "dousing." Putting him in a head down attitude and pouring water around his chest and face is just too close to the water board, and if it is continued may lead to problems for us.

I recommend we amend the water dousing to specify it is done in a standing position only. Dousing them while standing has no risk of water entering the nose, sinuses, or lungs, and is effective in its own right.

(b)(3) CIAAct

(b)(6)

(b)(7)(c)

(b)(7)(f)

~~TOP SECRET//X1~~

**His Excellency Zeid Ra'ad Al Hussein**  
United Nations High Commissioner for Human Rights

**Ms. Catalina Devandas Aguilar**  
Special Rapporteur on the Rights of Persons  
with Disabilities

**Dr. Dainius Pūras**  
Special Rapporteur on the Rights of Everyone  
to the Enjoyment of the Highest Attainable  
Standard of Physical and Mental Health

**Mr. Seong-Phil Hong**, Chair-Rapporteur  
United Nations Working Group on Arbitrary  
Detention

**Professor Juan Mendez**  
Special Rapporteur on Torture and Other  
Cruel, Inhuman, or Degrading Treatment or  
Punishment

**Sir Ben Emmerson, QC**  
Special Rapporteur on the Promotion and  
Protection of Human Rights and  
Fundamental Freedoms While Countering  
Terrorism

**Ms. Houria Es-Slami**  
Chair-Rapporteur of the Working Group on  
Enforced or Involuntary Disappearances

**Professor Christof Heyns**  
Special Rapporteur on Extrajudicial,  
Summary, or Arbitrary Executions

**Mr. Pablo de Greiff**  
Special Rapporteur on the Promotion of  
Truth, Justice, Reparation, and Guarantees of  
Non-Recurrence

**Ms. Mireille Fanon-Mendes-France**,  
Chairperson  
Working Group of Experts on People of  
African Descent

**Professor Mónica Pinto**  
Special Rapporteur on the Independence of  
Judges and Lawyers

**Ms. Maria Grazia Giammarinaro**  
Special Rapporteur on Trafficking in Persons,  
Especially Women and Children

**Dr. Alfred-Maurice de Zayas**  
United Nations Independent Expert on the  
Promotion of a Democratic and Equitable  
International Order

c/o Office of the United Nations High Commissioner for Human Rights  
Palais des Nations  
CH-1211 Geneva 10  
SWITZERLAND

*(Sent via e-mail: [urgent-action@ohchr.org](mailto:urgent-action@ohchr.org))*

~and~

**Ms. Zainab Hawa Bangura**  
Special Representative of the U.N. Secretary-General on Sexual Violence in Conflict

United Nations Secretariat Building  
Room S-3110  
New York, NY 10017  
*(Sent via e-mail: [SRSG-SVC@un.org](mailto:SRSG-SVC@un.org))*

26 June 2016

Request for Joint Urgent Appeal on Behalf of Mr. Mustafa al-Hawsawi

Dear Mesdames and Messieurs,

We write to you on behalf of Mr. Mustafa al-Hawsawi who is unable to communicate with you due to his decade-long confinement in a Top Secret prison at Guantanamo Bay Naval Base, Cuba. Mr. al-Hawsawi is prohibited from writing to you directly because his personal thoughts, memories of torture, and experiences of degradation, have been declared a threat to the national security of the United States and have therefore been classified as Top Secret by the United States Government. In short, the United States has classified what is in Mr. al-Hawsawi's mind – his own experience of torture.<sup>1</sup>

Furthermore, we write to all of you not as a haphazard blanket appeal, but because the array of core aspects of Mr. al-Hawsawi's dire situation and violations of his fundamental rights fall squarely within or overlap with each of your individual mandates. Some of you previously communicated with the United States Government on Mr. al-Hawsawi's behalf,<sup>2</sup> and most of you have generally addressed the dismal issue of the Guantanamo Bay Detention Facilities and military tribunals since 2002.<sup>3</sup> Despite your timely and appropriate past appeals to the United States, our Government continues to demonstrate stringent defiance to continue its cruel treatment of Mr. al-Hawsawi. For example, the Working Group on Arbitrary Detention adopted its opinion on Mr. al-Hawsawi in November 2014, calling upon the United States to release Mr. al-Hawsawi and provide him with reparation.<sup>4</sup> Mr. al-Hawsawi has never received any indication that the United States ever acknowledged the WGAD's opinion. Instead, your opinion appears to have been totally ignored for more than a year and a half. Now, we hope that a robust consortium of the High Commissioner, twelve Special Procedure mandates, and the Special Representative for the Secretary-General, collectively focused on Mr. al-Hawsawi's situation, can finally achieve a critical mass that will induce

---

<sup>1</sup> See, e.g., Appendix A to this letter (Transcript of military tribunal hearing on 23 October 2014).

<sup>2</sup> Communication from El Hadji Malick Sow (Chair-Rapporteur of the Working Group on Arbitrary Detention), Gabriela Knaul (Special Rapporteur on the Independence of Judges and Lawyers), Ben Emmerson (Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism), and Juan E. Méndez (Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment) to the United States of America regarding Mr. Mustafa al-Hawsawi (and others), A/HRC/22/67/USA/31/12(30.11.2012) and reply of the United States Government, A/HRC/25/74/USA/31/12 (19.12.2013)(also referenced in A/HRC/26/21/USA/31/2012)[Attached as Appendices B and C].

<sup>3</sup> Press Release: *LACHR, UN Working Group on Arbitrary Detention, UN Rapporteur on Torture, UN Rapporteur on Human Rights and Counter-Terrorism, and UN Rapporteur on Health reiterate need to end the indefinite detention of individuals at Guantanamo Naval Base in light of current human rights crisis* (01.05.13)(Available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13278&LangID=E#sthash.hl4bLq6L.dpuf>); Press Release: *"It's not just about closing Guantánamo, but also ensuring accountability," UN rights experts say* (26.02.2016) (Available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17097&LangID=E#sthash.WIVr2Eco.dpuf>); See also, e.g.: A/HRC/22/67/USA/28/2012 (24.10.2012); A/HRC/22/67/GBR/6/12 (30.11.2012); A/HRC/22/67/USA/32/2012 (30.11.2012); A/HRC/23/51/USA/28/2012 (24.10.2012); A/HRC/23/51/USA/28/2012 (04.01.2013); A/HRC/23/51/GBR/6/2012 (30.11.2012); A/HRC/23/51/GBR/6/2012 (20.02.2013); A/HRC/24/21/USA/32/2012 (25.06.2013); A/HRC/25/74/USA/32/2012; A/HRC/30/27/USA/8/2015; and, A/HRC/31/79/USA/8/2015.

<sup>4</sup> A/HRC/WGAD/2014/USA/50/14 (21.01.2015) [Attached at Appendix D]. See additionally, *Obaidullah v. United States of America*, A/HRC/WGAD/2013/10(25.7.2013).

the United States to fulfill the fundamental human rights obligations owed to Mr. al-Hawsawi and to which the United States is unquestionably obliged in international law. As the details we provide you below demonstrate, Mr. al-Hawsawi's dire plight is emblematic of Guantanamo's history of rendition, torture, and inhumane detention. Taking action on his behalf would be a message against that grotesque and crushing legacy to humanitarian rights.

Nature of Urgency: The United States Government's Actions Place Mr. al-Hawsawi's Health in Immediate Jeopardy and Irreparable Harm

Mr. al-Hawsawi's physical situation is severe and we petition you with an urgent appeal with regards to his fragile health. At the time of his rendition, in 2003, Mr. al-Hawsawi weighed 145 lbs (66 kg); at the time of this writing, he is down to 104 lbs (47 kg).<sup>5</sup> We hope you will strongly intercede on his behalf to preserve his medical well-being in order to provide you time to perform a fuller assessment of his situation. *Allow us to be frank and clear: the United States Government is knowingly placing Mr. al-Hawsawi's life in imminent jeopardy and irreparable harm by withholding needed medical treatment, while it maintains total effective confinement and control over him at Guantanamo Bay.*

In December 2014, the United States Senate Select Committee on Intelligence published an executive summary ("*Torture Report*") of their investigation into the CIA Rendition, Detention, and Interrogation Program ("*Torture Program*").<sup>6</sup> Despite its heavy redactions, the *Torture Report* specifically confirms that the U.S. Government tortured Mr. al-Hawsawi and held him in CIA black sites for three and a half years, until President George W. Bush announced his transfer to Guantanamo Bay, Cuba in 2006.<sup>7</sup> The report also reveals that, during those years of torture, the U.S. Government inflicted brutal injuries on him.<sup>8</sup> In particular, the *Torture Report* exposes that Mr. al-Hawsawi's torture included sodomy with a foreign object under the guise of "rectal exams" conducted, according to the report's own findings, with excessive force.<sup>9</sup> After recounting the sodomy of Mr. al-Hawsawi, the *Torture Report* also observes that Mr. al-Hawsawi was later diagnosed with a rectal prolapse, anal fissures (torn rectum), and chronic hemorrhoids.<sup>10</sup> The damage is so severe that Mr. al-Hawsawi must, in spite of excruciating pain, manually re-insert the prolapsing tissue back into his rectal cavity with his fingers when he defecates or strains. This condition leads him to minimize his eating, so as to avoid having to conduct this painful procedure, and, thus, has resulted in the compounding physical damage of his low body weight.

---

<sup>5</sup> The medically recommended weight for a man of his stature and age is approximately 66kg (145lbs).

<sup>6</sup> U.S. Senate Select Committee on Intelligence, *Committee Study of the Central Intelligence Agency's Detention and Interrogation Program* (9 December 2014), available at: <http://www.nytimes.com/interactive/2014/12/09/world/cia-torture-report-document.html>

<sup>7</sup> *Torture Report*, p. 432, fn. 2423; p. 188, fn. 1106; p. 96, fn. 557; and, p. 459 (Mr. al-Hawsawi was disappeared into the Torture Program for approximately 1,260 days). President Bush disclosed the arrival of some high-value detainees to Guantanamo in a speech on 6 September 2006, available at: <http://presidentialrhetoric.com/speeches/09.06.06>. See also, "CIA's Captives Moved to Gitmo," *St. Petersburg Times* (7 September 2006), available at: [http://www.sptimes.com/2006/09/07/news\\_pf/Worldandnation/CIA\\_s\\_captives\\_moved\\_.shtml](http://www.sptimes.com/2006/09/07/news_pf/Worldandnation/CIA_s_captives_moved_.shtml).

<sup>8</sup> See, e.g., *Torture Report*, p. 100, fn. 584; and, p. 102, fn. 600.

<sup>9</sup> *Ibid.* The relevant sections of the *Torture Report* that mention Mr. al-Hawsawi's treatment are attached at Appendix E. A new CIA Disposition Memorandum regarding the torture of Mr. al-Hawsawi was declassified in June 2016. It is attached as Appendix F and reveals that Mr. al-Hawsawi was more extensively and brutally tortured than initially revealed in the *Torture Report*.

<sup>10</sup> *Ibid.*

Mr. al-Hawsawi continues to suffer from the chronic presence of blood in his urine, the cause of which remains unknown. He had an acute onset of pain associated with urination and the visible presence of blood in his urine in July 2014. The most recent urine samples, taken the following year in May 2015 and August 2015, clearly documented to the U.S. Government that Mr. al-Hawsawi's blood in his urine continued unabated. Although confronted with this possible symptom of cancer for the last year and a half, the prison has not conducted any test necessary to rule out cancer. On 19 January 2016, Mr. al-Hawsawi saw a large discharge of blood mixed in his urine stream, equivalent to the first major onset in July 2014. An ongoing quantity of blood in urine substantial enough to be visible to the human eye is plainly symptomatic of an underlying and possibly imminent life-threatening condition. Mr. al-Hawsawi has conveyed to us that the continuous pain associated with urinating blood is increasing in its intensity. The military doctors at his classified prison facility provide him with merely prophylactic treatment (i.e. high doses of Tylenol, despite the fact that these doses are detrimental to an individual with a chronic liver condition, see below), but the underlying cause of the blood is neither known to Mr. al-Hawsawi nor treated.

In the paragraphs that follow, we will explain why Mr. al-Hawsawi needs your expeditious appeal to the United States Government regarding the potential of cancer and his ongoing gastrointestinal injuries that severely affect his intake of food and liquids. In order to identify and minimally treat his conditions in a meaningful effort to preserve his life, the following measures need to occur:

1. Mr. al-Hawsawi needs to receive an independent surgical consultation potentially leading to a standard corrective surgery for a rectal prolapse, which will allow him to have basic nutritional intake without the resulting excruciating bowel movements.
2. Mr. al-Hawsawi needs immediate access to all of his own medical records – in full and unredacted form – from the time of his rendition in 2003 until the present. Reliance on sporadic and inconsistent information from U.S. uniformed medical personnel is woefully inadequate because of Mr. al-Hawsawi's history of torture and because of the prison facility's track record of withholding medical records and the provision of necessary treatment. His ability to try and advocate for his care is only as strong as the information he has, and as his lawyers' ability to assist him with that technical medical information.
3. Mr. al-Hawsawi needs an independent medical doctor to review all medical records and to perform a comprehensive in-person medical examination and assessment.
4. Mr. al-Hawsawi needs to be tested for cancer immediately, and for that test result to be reviewed by an independent doctor. If cancer is ruled out as the cause of the blood in his urine, additional testing needs to be performed to determine the cause of the continual bleeding.
5. Mr. al-Hawsawi needs effective follow-up monitoring to verify the results of treatment of his Hepatitis C. It is important to note that, a condition that he did not suffer from prior to being rendered by the CIA.

We do not request these measures frivolously, nor do we believe these procedures are beyond a modicum of effort given the vast resources of the United States Government. Indeed, we believe these standard practices are crucial to maintain the fundamental physical security of his person and the dignity necessary to provide him the best chances of surviving his arbitrary detention



at Guantanamo Bay -- until his freedom is restored and he receives due redress from the United States Government, as your Working Group on Arbitrary Detention has instructed previously.

### Background Information on Mr. al-Hawsawi's Situation

a) *Mr. al-Hawsawi was disappeared and trafficked by the CIA and tortured, which included depraved acts of sexual violence.*

Mr. al-Hawsawi, a Saudi Arabian citizen of direct Nigerian heritage,<sup>11</sup> was rendered into the CIA Torture Program in 2003.<sup>12</sup> For over three years, he was disappeared, held incommunicado, and tortured daily involving multiple acts of unlawful transnational human trafficking<sup>13</sup> between CIA black sites.<sup>14</sup> The Senate's *Torture Report* reveals how the United States' trafficking enterprise utilized various national airspaces and, at minimum, ground transport to smuggle victims from the tarmacs to blacksite buildings.<sup>15</sup> Furthermore, the *Torture Report* details how throughout this time, the CIA,<sup>16</sup> its for-profit contractors,<sup>17</sup> and liaison governments<sup>18</sup> were paid hundreds of millions of dollars by

---

<sup>11</sup> Mr. al-Hawsawi is of Hausa ancestry.

<sup>12</sup> *Supra* at n.7 and n.8.

<sup>13</sup> Article 3(a) of the *Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime*, (U.N.T.S. vol. 2237, p. 319; Doc. A/55/383) ["Human Trafficking Protocol"], defines "trafficking in persons" as "the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs [emphasis added]." The exploitation in the Torture Program was psychological servitude. The United States ratified the Human Trafficking Protocol on 3 November 2005.

<sup>14</sup> The *Torture Report* estimates that at least 119 victims were disappeared and trafficked as part of the Torture Program (p. 114 and fn. 26). See also, *Torture Report*, p.18, fn.8 (noting the existence of black sites in at least four countries). Specifically the *Torture Report* reveals that Mr. al-Hawsawi was smuggled between various unidentified countries and CIA blacksites against his will during his years of forced disappearance. Mr. al-Hawsawi was captured in Pakistan along with another victim (*Torture Report*, p. 295 and at <http://www.cnn.com/2003/WORLD/asiapcf/south/03/03/pakistan.arrests/>). The *Torture Report* observes that Mr. al-Hawsawi was tortured at blacksite COBALT shortly after his capture in 2003 (p. 106 and p.100, n. 584). The *Torture Report* strongly implies that he was relocated to blacksite VIOLET by 2006, since the refusal of VIOLET's host country to provide him with medical care resulted in the closing of blacksite VIOLET (p. 154 and see Appendix E.) The "remaining" VIOLET prisoners (including, presumably, Mr. al-Hawsawi) were moved to blacksite BROWN in 2006 (p. 154). Since the unwillingness of blacksite VIOLET's host country to provide medical care was the motive for closing blacksite VIOLET and moving detainees to blacksite BROWN, blacksite BROWN was presumably in a different country from blacksite VIOLET. The *Torture Report* states that blacksites ORANGE and BROWN were in the same country (p.61), and appears to state that blacksites VIOLET and ORANGE were in different countries (p. 156). Since blacksites COBALT and BROWN were in the same country (p. 61), this implies at least two illicit transnational moves: from blacksite COBALT to blacksite VIOLET and from blacksite VIOLET to blacksite BROWN. Since the *Torture Report* names two or three detention sites at Guantanamo Bay (pp. 139-40), none of which is BROWN (p. 140, fn. 848), this implies a third transnational move: from BROWN to Guantanamo Bay. As Pakistan (the location of Mr. al-Hawsawi's original disappearance) is nowhere near the island of Cuba (his current location), Mr. al-Hawsawi was almost certainly moved through the territory and airspace of multiples other countries as well; however, the records of his exact geographical movements are classified Top Secret by the United States Government.

<sup>15</sup> *Torture Report*, p. 64, fn. 318.

<sup>16</sup> *Torture Report (Summary and Conclusions Section)*, p. 16. The CIA Torture Program cost approximately \$300 million dollars (not including payroll expenses).

<sup>17</sup> See, generally, *Torture Report*, pp. 139-44; pp. 151-56; pp. 168-69; p. 104, fn. 608; p. 49, fn. 104. A private for-profit company held a \$180 million contract from the CIA to conduct the Torture Program (*Torture Report*, p. 168). Eighty-five

the U.S. Government to facilitate unlawful detention, exploitation, and torture.<sup>19</sup> The *Torture Report* concludes that these host countries and private contractors were financially incentivized to perpetuate the illegal detention and unlawful exploitation of detainees like Mr. al-Hawsawi, or more crudely put, “money for bodies”.<sup>20</sup>

The torture which followed Mr. al-Hawsawi’s abduction involved acts of depravity *designed to exploit* Mr. al-Hawsawi for any potential information. The information that the U.S. Government hoped to extract from High Value Detainees (HVDs) through this torture was used to justify the vast sums of money the U.S. Government paid. This calculated and concerted effort essentially amounted to a government-sponsored and internationally outsourced “organized criminal enterprise” within the meaning of the United Nations Convention Against Transnational Organized Crime; this operation carried out serious, transnational crimes as defined by that Convention.<sup>21</sup> Under the Human Trafficking Protocol, to which it is a party, the U.S. Government bears the obligation and responsibility of rehabilitating Mr. al-Hawsawi and providing him with physical safety, as well as the means to present evidence against those responsible for his trafficking and torture.<sup>22</sup> These obligations are clearly inconsistent with the pursuit of a capital prosecution which seeks to ultimately kill, and therefore permanently silence, Mr. al-Hawsawi.

In addition to sodomizing Mr. al-Hawsawi with such force that his lower intestine and anus were ripped and dislodged,<sup>23</sup> Government reports have also noted that sodomy was only one of a purported array of violent torture techniques specifically designed to be sexual in nature in order to horrify and shame Muslim victims.<sup>24</sup> Gender coercion was an approved interrogation technique used against Muslim detainees in Guantanamo Bay.<sup>25</sup> Among the confirmed acts were that female U.S. military service members provocatively straddled a Muslim male victim while telling him of the deaths of his friends; in other instances female service members fondled prisoners’ genitalia, made

---

percent of individuals working as part of the Torture Program were paid contractors (*Torture Report (Summary and Conclusions Section)*, p. 12) and most were former CIA employees whom had previously worked for the Torture Program (p. 168-69). At least two particular interrogators were paid \$1,800 per day and they judged both the effectiveness of their torture and whether more was needed (*Torture Report*, p. 66). A “cash award” bonus was paid to the individual overseeing a blacksite only months after a victim froze to death inside her/his facility in 2002 (*Torture Report*, p. 55). Some of these private contractors performed quasi-official liaison roles and operated under the color of law in dealing with foreign government officials (*Torture Report*, p. 168-69).

<sup>18</sup> Internal CIA documents revealed in the *Torture Report* notes that the original design for the Torture Program was, in fact, to “[c]ontract out...[to] commercial companies, and, as appropriate, *foreign governments*.”(*Torture Report*, pp.12-13, emphasis added.) To that end, the *Torture Report* also uncovered “millions of dollars in *cash payments to foreign government officials*” in order to establish, maintain, and expand blacksites (*Torture Report*, pp. 97-99; pp. 139-40, fns. 842 and 843). One CIA communication read, “Do you realize you can buy [country redacted] for \$[redacted]?” (*Torture Report*, pp. 153-54)

<sup>19</sup> The CIA offered “millions of dollars” in subsidies to at least three countries and encouraged their foreign liaisons to “think big” and make a “wish list” of things they would like *quid pro quo* for hosting blacksites (pp. 139-40, fn. 843).

<sup>20</sup> *Ibid.*

<sup>21</sup> U.N.T.S., vol. 2225, p. 209, Art. 2(a), (b), and (c); Art. 3(2), and Arts. 5, 6, 8, 10, 15, and 16. The United States ratified the *United Nations Convention Against Transnational Organized Crime* on 3 November 2005.

<sup>22</sup> See, e.g., *Human Trafficking Protocol*, Art. 5 Moreover, countries that hosted CIA blacksites or knowingly allowed the CIA or its contractors to pass through its territorial airspace might have had obligations to Mr. al-Hawsawi under additional provisions of the *Human Trafficking Protocol* to prevent his further transfer; for example, Arts. 7, 8, 9 and 11.

<sup>23</sup> *Torture Report*, pp. 82-83 and pp. 99-100 (noting that the stated purpose was “behavior control”)

<sup>24</sup> The *Torture Report* also describes instances of extended periods of nudity including while being interrogated by females, p. 101, fn. 589; p. 103, fn. 599; and p. 105.

<sup>25</sup> Army Regulation 15-6 Final Report, *Investigations into FBI Allegations of Detainee Abuse at Guantanamo Bay, Cuba Detention Facility* (“*Schmidt-Furlow Report*”), 9 June 2005, attached as Appendix G.

sexual noises during interrogations, performed lap dances and rubbed prisoners' bodies while these prisoners were chained to the wall or floor, placed bras and thongs on a prisoner's head, and, in at least one incident, wiped fake menstrual blood on one of the men.<sup>26</sup>

*b) Mr. al-Hawsawi was transferred to a Top Secret prison at Guantanamo Bay, Cuba where he was designated by the CIA to be tried in a death penalty case for alleged war crimes. Simultaneously, his mind was classified by the United States Government and remains classified, preventing him from communicating outside of Guantanamo Bay other than through censored occasional ICRC messages to his family.*

Following years of torture, Mr. al-Hawsawi was transferred from CIA captivity to Guantanamo Bay. Upon arrival at Guantanamo Bay, Mr. al-Hawsawi was strategically labeled by the CIA as a "high-value" detainee, his memories, thoughts and experiences, essentially his mind, was classified top secret, and he became sequestered from the world in virtual isolation inside a top secret prison. Years after his transfer to Guantanamo Bay, Mr. al-Hawsawi was charged with alleged war crimes before a specially-created U.S. military tribunal where, as a victim of the U.S. Government's torture regime, he has not coincidentally been hand-picked for a secretive military trial.<sup>27</sup> This background is critical to note because, while the Obama Administration repeatedly contends that it is attempting to close the Guantanamo Bay prison as expeditiously as possible, the Government has also stated that it has no intention of ending the death penalty military trials.<sup>28</sup>

The Guantanamo Bay military tribunals are pure legal theater whose aim is not to ensure just, fair, and transparent due process for Mr. al-Hawsawi, but instead to protect the interests of the U.S. intelligence community by ensuring convictions and silencing victims of its torture through incommunicado life sentences or the death penalty. Individuals and prosecutors involved in the creation of the military tribunals have recounted that the original intention was to expedite convictions<sup>29</sup> but, despite this plan, the tribunals have limped along in various incarnations for nearly a decade without ever actually reaching the trial stage. Mr. al-Hawsawi's trial is widely viewed to have descended into a farce, and the only factor preventing it from completely unraveling is the seemingly endless ability of the U.S. Government to influence a repeated rewriting of the rules and to thwart the application of well-established legal principles. For example, the trial was at a standstill for over a year upon revelation that the FBI had infiltrated a defense team with an informant.<sup>30</sup> In February 2015, another staggering revelation that a former CIA interpreter had been provided for almost two

---

<sup>26</sup> *Schmidt-Furlow Report*, pp. 7-8, 15-16 and 22-23.

<sup>27</sup> *Torture Report*, p. 157

<sup>28</sup> See e.g., *Remarks by the President on Plan to Close the Prison at Guantanamo Bay*, 23 February 2016, available at: <https://www.whitehouse.gov/the-press-office/2016/02/23/remarks-president-plan-close-prison-guantanamo-bay>

<sup>29</sup> "Former Chief Guantanamo Prosecutor Says Military Commissions 'Not Justice,'" *National Public Radio (NPR) - Democracy Now*, 16 July 2008. Transcript of Interview with former Air Force Colonel Morris Davis: *Yeab, that was on October the 2nd of 2005. It was when I came to Washington for what I would describe as a hiring interview. During that, Mr. Haynes brought up that these trials, the trial of the al-Qaeda [sic] detainees, would be the Nuremberg of our time. And I pointed out to him that, you know, at Nuremberg, not everyone was convicted; there were some acquittals. And certainly, as a prosecutor, you never go into court aiming for an acquittal, but I said, in my view, if that did happen, that, at a minimum, it would tend to validate the process, that these were fair trials. And he kind of rocked back in his chair, and his eyes got big, and it appeared to me that it was a thought he had never contemplated, and that was when he said, you know, "Wait a minute, we can't have acquittals. We've been holding these guys for years. How are we going to explain that? We can't have acquittals. We've got to have convictions."* (Available at: [http://www.democracynow.org/2008/7/16/fmr\\_chief\\_guantanamo\\_prosecutor\\_says\\_military](http://www.democracynow.org/2008/7/16/fmr_chief_guantanamo_prosecutor_says_military))

<sup>30</sup> See e.g., Ryan J. Reilly, "FBI Infiltration of Gitmo Defense Team Tosses 9/11 Trial Into Disarray," *The Huffington Post*, 17 April 2014, available at: [http://www.huffingtonpost.com/2014/04/17/fbi-guantanamo\\_n\\_5167296.html](http://www.huffingtonpost.com/2014/04/17/fbi-guantanamo_n_5167296.html)

years to unknowing defense teams for their use in attorney-client meetings.<sup>31</sup> Additionally, court records demonstrate that listening devices disguised as smoke detectors were placed in attorney-client meeting rooms.<sup>32</sup> Currently, there is an ongoing internal investigation into the unlikely coincidence of the breaking into and entering of the homes or apartments of more than a dozen defense team personnel. During these “robberies” not a single item was taken from any of the homes, although many personal computers were tampered with.

The jurisprudence of the military tribunals reflects their infirmity. In 2014, the military judge ruled that Mr. al-Hawsawi has no right to meet with Saudi Arabian consular officials.<sup>33</sup> The Saudi Arabian Government has requested to meet with Mr. al Hawsawi, yet, he has never had a consular visit since his abduction in 2003. This same military judge ruled that Mr. al-Hawsawi has no rights whatsoever within the Convention Against Torture,<sup>34</sup> despite the U.S. Government stating at its review in Geneva before the Committee Against Torture, in November 2014, that the Convention Against Torture *does* apply at Guantanamo.<sup>35</sup> The cumulative effect of the interference of U.S. Government agencies and the denial of the most basic protections of international law beggar belief: they prove the U.S. Government’s egregious and capricious obstruction of fairness and justice at Guantanamo Bay to maintain control of an otherwise unsustainable legal fiction. External expert observers like yourselves are as likely baffled as troubled, when attempting to make sense of the U.S. Government’s military trials at Guantanamo Bay. We propose to you that the sole perspective that offers logical clarity in the final analysis is that the U.S. Government has no intention of providing a fair trial that might acquit Mr. al-Hawsawi. A finding of innocence resulting in his freedom could risk holding the United States judicially accountable for torture, and avoiding such consequences (or only “looking forward, not backward” in U.S. Government parlance<sup>36</sup>) is the Government’s overriding concern. In this way, the military trials at Guantanamo Bay are simply fraudulent and the absolute antithesis of truth, justice, reparation, and guarantees of non-recurrence for the crime of systematic state-sponsored torture. It is telling that more prisoners have died in custody at Guantanamo Bay than have been convicted in the military trials there.<sup>37</sup>

Noting the illegitimacy and abysmal failings of Guantanamo military tribunals, your U.N. Working Group on Arbitrary Detention published its opinion on Mr. al-Hawsawi’s petition.<sup>38</sup> In that opinion, you deemed Mr. al-Hawsawi’s detention to be arbitrary and called for his release and compensation. The U.S. Government has not acknowledged to us your opinion nor given us any

---

<sup>31</sup> See e.g., Carol Rosenberg, “Pentagon: 9/11 Defense Team Linguist was a CIA Asset,” *The Miami Herald*, 10 February 2015, available at: [www.miamiherald.com/news/nation-world/world/americas/guantanamo/article9705209.html](http://www.miamiherald.com/news/nation-world/world/americas/guantanamo/article9705209.html)

<sup>32</sup> See e.g., Peter Finn, “At Guantanamo, Microphones Hidden in Attorney-Client Meeting Rooms,” *The Washington Post*, 12 February 2013, available at: [https://www.washingtonpost.com/world/national-security/2013/02/12/812c7662-7552-11e2-95e4-6148e45d7adb\\_story.html](https://www.washingtonpost.com/world/national-security/2013/02/12/812c7662-7552-11e2-95e4-6148e45d7adb_story.html). Photo of device included with news articles at Appendix H.

<sup>33</sup> Tribunal Ruling (AE-214H) included at Appendix I.

<sup>34</sup> Tribunal Ruling (AE-200II) included at Appendix J.

<sup>35</sup> Transcript excerpt of the United States Government’s Reply at the Committee Against Torture Review, 12 November 2104, included as Appendix K.

<sup>36</sup> David Johnson and Charlie Savage, “Obama Reluctant to Look into Bush Programs,” *The New York Times*, 11 January 2009, available at: <http://www.nytimes.com/2009/01/12/us/politics/12inquire.html> [“Mr. Obama added that he also had “a belief that we need to look forward as opposed to looking backwards...[a]nd part of my job,” he continued, “is to make sure that, for example, at the C.I.A., you’ve got extraordinarily talented people who are working very hard to keep Americans safe. I don’t want them to suddenly feel like they’ve got spend their all their time looking over their shoulders.”]

<sup>37</sup> Karen Greenberg, *No Justice At Gitmo*, 19 April 2016:

[http://www.tomdispatch.com/post/176130/tomgram%3A\\_karen\\_greenberg,\\_no\\_justice\\_at\\_gitmo/](http://www.tomdispatch.com/post/176130/tomgram%3A_karen_greenberg,_no_justice_at_gitmo/)

<sup>38</sup> *Supra* at n. 4.

indication that they have even taken the time to read it. Instead, they have tacitly “responded” by continuing to withhold adequate medical care and rehabilitation for the suffering Mr. al-Hawsawi endures daily in his prison cell as a result of his torture. Moreover, we must admit that simple logic indicates that Mr. al-Hawsawi’s detention can no longer be labeled “arbitrary” in the traditional sense – “based on random choice – without any reason”. Indeed, it appears that he is being held indefinitely and punishingly for a very specific reason: to silence him in order to avoid additional national shame and international accountability for his years of torture.

In particular, we note that in your published opinion, the WGAD did not assess *the conditions* of Mr. al-Hawsawi’s arbitrary indefinite detention.<sup>39</sup> We appeal now to the WGAD to urgently supplement its opinion on this topic of Mr. al-Hawsawi’s conditions of confinement because his medical wellbeing and basic dignity are foundational, and necessary to his release and the ultimate end of his arbitrary detention: without the former, the latter are irrelevant.

*c) The United States Government places Mr. al-Hawsawi’s life in jeopardy by impeding his right to rehabilitation for the torture and his right to meaningful medical care.*

Mr. al-Hawsawi’s years of torture involved significant elements of what amounts to medical experimentation.<sup>40</sup> The *Torture Report* reveals that torture sessions were attended and supervised by medical professionals to test and refine new methods of physical and psychological trauma in order to achieve maximum effectiveness or, in their own terminology, a highly-honed program of “learned helplessness”.<sup>41</sup> The report also notes that the CIA subjected Mr. al-Hawsawi to an unnamed medical procedure in an unnamed third-party country because doctors in the original country hosting the blacksite had refused to perform the necessary emergency procedure or accept him into a medical facility.<sup>42</sup> No indication of patient consent – informed or otherwise – or of any doctor-patient interactions are referenced in the *Torture Report*.<sup>43</sup> Medical experimentation on human beings is a grave violation of international law.<sup>44</sup>

---

<sup>39</sup> See Mr. al-Hawsawi’s *Motion for Appropriate Relief to Request Confinement Conditions That Comply with International Humanitarian Law*, AE-303, 29 May 2014, attached as Appendix L.

<sup>40</sup> Throughout the *Torture Report*, there exists a continual narrative that medical personnel were regularly involved in rendition flight transport (p.84) and blacksite torture sessions both in developing methods such as “guidelines” for techniques of waterboarding (p. 87 and p. 107) in order to make them “near drownings” (p. 86). One medical personnel in a blacksite commented that the role of medical personnel was “maximizing the benefit in a safe manner and keeping everyone’s butt out of trouble.”(p. 87). Internal CIA communications themselves warned that interrogators could be engaging in human experimentation (p. 126 and fn. 743), and indeed interrogators continued to test between what interrogation techniques could be termed “standard” and which were labeled “enhanced,” with definitions regularly evolving (pp. 101-02, fn. 589). The *Torture Report* evidences that significant experimentation occurred with regards to the maximum lengths and effects of sleep deprivation (p. 117; p. 165, fn. 1008). Additionally, medical personnel experimented with “dietary manipulation” (p. 103, fn. 602) that morphed into force feeding assaults, which would later become standard force feeding techniques throughout Guantanamo Bay prison facilities (p. 114-15). Perhaps, most revealingly, medical personnel innovated new forms of physical and psychological torture in blacksites by using existing wounds and injuries against the individual, such as hanging them from the ceiling on a foot that was already broken as well as using blood-thinner to decrease swellings in order to continue prolonged suffering (p. 111, fn. 649; p. 112-13).

<sup>41</sup> *Torture Report (Findings and Conclusions Section)*, p. 11. The *Torture Report* notes that one interrogator, who was also medical personnel, stated that he was going to “go to school on [a victim],” p. 90.

<sup>42</sup> *Torture Report*, pp. 154-55.

<sup>43</sup> *Ibid.*

<sup>44</sup> See e.g., Office of the High Commissioner for Human Rights and the World Health Organization, *The Right to Health: Fact Sheet No. 31* (2008), p.3; Committee Economic, Social, and Cultural Rights, *General Comment No. 14*, E/C.12/2000/4, (11 August 2000), §8.

Torture rehabilitation specialists have advised us that, because of the physician-assisted severity and prolonged nature of the brutally systematic blacksite torture documented in the Senate Report, Mr. al Hawsawi will almost certainly suffer for the rest of his life from multiple long-term disabilities. Furthermore, the “original” medical injuries and conditions inflicted upon him during his torture by the United States Government have been exponentially exacerbated over the last ten years, since the end of the “official” Torture Program in 2006, by the lack of meaningful rehabilitation at Guantanamo Bay.

Amongst the many documented instances evidencing withholding or denial of adequate medical care to Mr. al-Hawsawi, three examples clearly and irrefutably indicate neglect and/or intentional harm through omission. First, it is inexplicable that Mr. al-Hawsawi has had blood in his urine for more than a year and a half, a condition which the United States Government has acknowledged, yet he has not been comprehensively tested for the origins of the blood, especially to determine whether he has cancer. This state of affairs is particularly egregious where Mr. al-Hawsawi is concerned: torture rehabilitation experts have explained to us that deliberate “unknowns” (e.g. not knowing whether you are terminally ill) are one of the most common methods that torturers will use to continue to psychologically traumatize their victims, even after the physical assaults have ceased. Regardless of the intent behind the abject failure to afford him testing and treatment, the “unknown” in which the prison facility places Mr. al-Hawsawi is therefore profoundly disturbing and traumatic.

Second, in a similar vein, the meagre information Mr. al-Hawsawi does receive regarding his health is incomplete and outdated. For example, at the end of December 2015 we received some of Mr. al-Hawsawi's medical records; but, because the U.S. Government does not provide records to him until at least six months after they are generated, those turned over to us in December are from May and June 2015. And even then, when he is provided with some of his medical records, these are not the complete records, and critical pieces from what is turned over are wholly redacted such that he cannot see what has been written about his own health condition. With respect to medical treatment in the years he was rendered, we have only seen sanitized brief summaries of some of medical notes made by the CIA when Mr. al-Hawsawi was disappeared at blacksites. Thus, on an on-going basis and as a direct result of U.S. Government conduct, we simply do not have the records that would be necessary to assess Mr. al-Hawsawi's present condition. Furthermore, because the U.S. Government has officially classified the minds of its torture victims, Mr. al-Hawsawi is denied the right, in law and in practice, to seek, receive, and impart information concerning grave health issues that threaten his life and well-being. The U.S. Government prevents Mr. al-Hawsawi's legal counsel from communicating with the only doctors allowed to treat him: uniformed U.S. military personnel who answer only to the prison authorities and who are moved elsewhere every six months. His symptoms and history show a man in very poor health, yet the U.S. Government remains silent or in abject denial.<sup>45</sup>

---

<sup>45</sup> See e.g., Jessica Schulberg, “Pentagon Accused of Denying Medical Care to Torture Victim and Alleged 9/11 Plotter,” *The Huffington Post*, 11 February 2016, available at: [http://www.huffingtonpost.com/entry/mustafa-al-hawsawi-torture-guantanamo-medical-treatment\\_us\\_56bcec2de4b0c3e55050885a](http://www.huffingtonpost.com/entry/mustafa-al-hawsawi-torture-guantanamo-medical-treatment_us_56bcec2de4b0c3e55050885a), attached as Appendix M; and, correspondence between Amnesty International and the United States Department of Defense regarding the medical situation of Mr. al-Hawsawi, attached as Appendices N and O.

Third, Mr. al-Hawsawi has informed the prison authorities on multiple occasions that he desires corrective surgery for his rectal prolapse (performed by a female or male surgeon regardless of gender, despite his native cultural and religious sensitivities); yet, every day, and for more than a decade now, he has to manually reinsert his anus painfully with his fingers.

Each of these three instances of neglect or omission are in and of themselves a serious violation of his right to basic medical care; however, taken together – with many more instances not recounted in this letter because they remain classified – the mistreatment of Mr. al-Hawsawi (particularly if that treatment is indeed calculated to maintain or increase levels of suffering) is an abomination and an assault upon his body *amounting to continued torture*.

The denial of accessibility to meaningful care and reasonable medical accommodation is indisputably not because his needs impose an undue or disproportionate burden on the United States Department of Defense and its annual budget of approximately \$530 billion. Mr. al-Hawsawi is not permitted to receive care in the Naval Base hospital (even under sedation) nor is he allowed access to any of the hospital's technology or the doctors treating American citizens residing at the Naval Base. Even if his medical needs were costly, the singular decisive fact is that Mr. al-Hawsawi only requires such medical treatment *because of what the United States Government itself did to him*. The overt discrimination against his medical needs is of a political nature, in law and in fact, with the intention or effect of nullifying or impeding the equal enjoyment to the right of health.<sup>46</sup> Mr. al-Hawsawi's only avenue of being recognized as a person before the law or of obtaining legal redress is in front of the military judge at Guantanamo, and that judge has ruled that he has no jurisdiction to affect Mr. al-Hawsawi's medical care.<sup>47</sup> As a result of the military judge's ruling, we petitioned a federal court in the United States for *habeas corpus* on the grounds of Mr. al-Hawsawi's failing health; the federal court also denied jurisdiction.<sup>48</sup> The effect of the U.S. Government's conduct and the legal posture of Mr. al-Hawsawi's case nullify or impede his equal enjoyment of the right to health. With respect to obtaining adequate medical care therefore, in law and in fact, Mr. al-Hawsawi has been relegated to a no man's land constructed by the U.S. Government for what are, ultimately, its own political purposes. Therefore, when it comes to his disabilities and critical medical needs, Mr. al-Hawsawi has no effective access to justice. From a medical point of view, he is being held incommunicado at Guantanamo Bay. These nullifications and impediments further marginalize him and create additional vulnerability to his health needs compounding his illnesses and fragility.<sup>49</sup>

It is critical to recognize that the exact same Government that tortured and broke him is now withholding from or outright denying Mr. al-Hawsawi meaningful basic medical care, torture rehabilitation, and the rights due him as a human being with multiple disabilities. Despite the U.S. Government's farcical reply that Mr. al-Hawsawi receives a high-quality health care “equal to that of U.S. service personnel at Guantanamo Bay,”<sup>50</sup> the reality is astonishing in how much effort the U.S. Government has undertaken either to ignore the facts of Mr. al-Hawsawi's situation or to place even the most minor forms of treatment bureaucratically beyond Mr. al-Hawsawi. After years of confronting our Government on the status of Mr. al-Hawsawi's health and well-being, we are

---

<sup>46</sup> As reflected in customary international law by the *Convention on Rights of Individuals with Disabilities* [“CRPD”], A/RES/61/106 (24 January 2007), Art. 2

<sup>47</sup> Mr. al-Hawsawi's *Emergency Motion for Medical Attention* (AE-303), included as Appendix P

<sup>48</sup> *Al-Hawsawi v. Obama*, 15-CV-01257-RJL, 9 October 2015, included at Appendix Q.

<sup>49</sup> CESCR, *General Comment No. 14*, §§12(b)(i)-(ii) and §43(a) and, see also, CRPD, Art. 2

<sup>50</sup> See e.g., *supra*, at fn. 35.

disheartened to earnestly observe that his current maltreatment appears to be medical malfeasance. The possible reasons behind this twisted intentional withholding of adequate medical care speak to all of your mandates in various ways. One justification that the United States resorts to when challenged with the realities of denied care is its persistent contention that it is in compliance with the minimal practical requirements of Common Article 3 of the Geneva Conventions that are due an unprivileged enemy belligerent detained in a situation of armed conflict.<sup>51</sup> Yet, Mr. al-Hawsawi is not imprisoned temporarily in a battle zone awaiting a status review, he has been confined in a Top Secret maximum security facility on a U.S. military base on the coastline of Cuba roughly an hour flight from Miami – for over a decade.

A second justification for his prolonged medical mistreatment, often unspoken but subtly alluded to by U.S. representatives, is that Mr. al-Hawsawi is unworthy of rehabilitation because he is allegedly guilty of a crime.<sup>52</sup> Yet, Mr. al-Hawsawi has never been tried or found guilty. A third rationale for Mr. al Hawsawi’s ongoing mistreatment might be that to “rehabilitate” him for his torture would be to admit that he *is* a victim of torture. The U.S. Government has never officially admitted to torturing him, for fear of the legal consequences that would result against American perpetrators at various governmental levels.<sup>53</sup> In fact, despite the conclusions in the *Torture Report*, the relevant Guantanamo Bay authorities themselves do not acknowledge that Mr. al-Hawsawi’s injuries and conditions are a result of his torture or that they have a duty to provide him with due medical care. To rehabilitate Mr. al-Hawsawi as a torture victim would open a narrow pathway to truth, justice, reparation and guarantees of non-recurrence. Denial of responsibility for torture is denial of the accountability, justice, remedies to victims, healing, and reconciliation that fundamentally underpin preventing the recurrence of American torture and future grave violations of human rights by the United States.

Furthermore, Mr. al-Hawsawi’s languishing without proper medical care must be put into the context that there is no foreseeable date for a trial. It likely will be more than five years before he has the opportunity to refute the allegations against him in open court, be acquitted, and win his freedom. Of course, Mr. al-Hawsawi has to remain alive long enough to do so.

### Conclusion and Renewed Petition for Urgent Action

The U.S. Government has international law obligations to respect Mr. al-Hawsawi’s right to meaningful and adequate medical care and rehabilitation as a victim of its Torture Program, particularly because he falls into the category of especially vulnerable individuals as a prisoner in a classified penal facility at Guantanamo Bay.<sup>54</sup> These obligations entail the United States Government taking positive measures<sup>55</sup> that would enable Mr. al-Hawsawi to receive “as full a rehabilitation [from

---

<sup>51</sup> *Ibid.*

<sup>52</sup> See 6 October 2015 response of the United States Government to Mr. al-Hawsawi’s complaint to the Inter-American Commission on Human Rights, included as Appendix S. The precautionary measures issued by the Inter-American Commission on Human Rights on behalf of Mr. al-Hawsawi are included as Appendix R.

<sup>53</sup> The word “torture” is only formally used in the foreword to the *Torture Report*. In responding to the *Torture Report*, CIA Director John Brennan refused to use the word “torture,” see e.g., Spencer Ackerman, “CIA Director John Brennan Defends Agency in Wake of *Torture Report*,” *The Guardian*, 11 December 2014, available at: <http://www.theguardian.com/us-news/2014/dec/11/john-brennan-defends-cia-torture-report>

<sup>54</sup> CRPD, Arts. 11, 12, 13, 14, 15, 16, 17, 23, and 25. See also e.g., CESCR, *General Comment No. 14*, §12(b)(i) and §34 and OHCHR and WHO, *Fact Sheet No. 31*, pp. 9-10.

<sup>55</sup> OHCHR and WHO, *Fact Sheet No. 31*, pp. 25-27 and pp. 16-18.



his torture] as possible.”<sup>56</sup> In addition to requiring equal and timely access to basic preventive, curative, and rehabilitative health services,<sup>57</sup> the right to medical care provides some definition of the acceptability and quality of medical treatment.<sup>58</sup> The medical care must be respectful of medical ethics and culturally appropriate<sup>59</sup> as well as fundamentally designed to *improve* the health status of those concerned.<sup>60</sup> Moreover, treatment must be scientifically and medically appropriate as well as of genuinely good quality,<sup>61</sup> with the subjective standard of “good” being evaluated within the context of the overall abilities of the particular responsible state.<sup>62</sup> In this instance, it is obvious that the United States maintains one of the most highly advanced medical systems in the world. As evidenced throughout this letter, the little medical care that Mr. al-Hawsawi does receive falls abysmally below these standards. We earnestly hope that you will unequivocally remind the United States Government of its obligations and ongoing failings in the situation of Mr. al-Hawsawi.

Again, Mr. al-Hawsawi needs your expeditious intercession regarding the potential life-threatening cancer and his ongoing gastro-intestinal injuries severely affecting his intake of food and liquids. In order to identify and minimally treat his conditions in a meaningful effort to preserve his life, the following measures need to occur:

1. Mr. al-Hawsawi needs to receive an independent surgical consultation potentially leading to a standard corrective surgery for a rectal prolapse, which will allow him to have basic nutritional intake without the resulting excruciating bowel movements.
2. Mr. al-Hawsawi needs immediate access to all of his own medical records – in full and unredacted form – from the time of his rendition in 2003 until the present. Reliance on sporadic and inconsistent information from U.S. uniformed medical personnel is woefully inadequate because of Mr. al-Hawsawi’s history of torture and because of the prison facility’s track record of withholding medical records and the provision of necessary treatment. His ability to try and advocate for his care is only as strong as the information he has, and as his lawyers’ ability to assist him with that technical medical information.
3. Mr. al-Hawsawi needs an independent medical doctor to review all medical records and to perform a comprehensive in-person medical examination and assessment.
4. Mr. al-Hawsawi needs to be tested for cancer immediately, and for that test result to be reviewed by an independent doctor. If cancer is ruled out as the cause of the blood in his urine, additional testing needs to be performed to determine the cause of the continual bleeding.
5. Mr. al-Hawsawi needs effective follow-up monitoring to verify the results of treatment of his Hepatitis C. It is important to note that, a condition that he did not suffer from prior to being rendered by the CIA.

---

<sup>56</sup> Art. 14(1), *Convention Against Torture and Other Cruel, Degrading, and Inhumane Treatment*, U.N.T.S. 1465 (10 December 1984). The United States ratified the convention on 21 October 1994. See also, Committee Against Torture, *General Comment No. 3 – Implementation of Article 14 by State Parties*, CAT/C/GC/3(2012), §§11-15 and CRPD, Arts. 25(b) and 26.

<sup>57</sup> OHCHR and WHO, *Fact Sheet No. 31*, p. 4.

<sup>58</sup> *Ibid.*, p. 4.

<sup>59</sup> *Ibid.* See also, UNESCO, *General Comment 14*, §12(c).

<sup>60</sup> *Ibid.*

<sup>61</sup> *Ibid.* See also, UNESCO, *General Comment 14*, §12(d).

<sup>62</sup> *Ibid.*, p. 5; and as reflected in customary international law by the *Convention on the Rights of Persons with Disabilities*, Article 25 and the *International Covenant on Economic, Social, and Cultural Rights*, Art. 2.

We hope that you will strongly engage, as soon as possible, the U.S. Government on these five measures regarding Mr. al-Hawsawi's immediate medical needs. These are very specific and reasonable requests that only require minimal resources and effort of the U.S. Government, and they can all be actioned within the next 90 days. Indeed, we believe these standard medical treatments and procedures are crucial to maintain the fundamental physical security and dignity of Mr. al-Hawsawi's person necessary to provide him the best chances of survival at the Guantanamo Bay prison.

In closing, we additionally petition you to remind the United States that government officials can be held personally accountable without statute of limitation for continuing, grave, serious and systematic violations of human rights, particular war crimes and crimes against humanity. This is especially true when those officials have repeatedly been made aware of the ongoing violations, and yet they have failed to take proactive steps to respect and protect fundamental rights and fulfill their international legal obligations accordingly.

Thank you for your continued time and attention to Mr. al-Hawsawi's condition. Should you require more information on any issue, we remain available to you and your staff to provide, wherever possible, additional documentation that will confirm or clarify every assertion and factual instance we have conveyed in this abbreviated letter. We do so in Mr. al-Hawsawi's stead, since he himself is prohibited by the U.S. Government from communicating directly with you or any other human rights protection mechanism in the United States of America or in the global community.

Sincerely,

Mitch Robinson, Ph.D.  
*International Law Specialist for Mr. al-Hawsawi*

Suzanne M. Lachelier, Esq.  
*Detailed Civilian Counsel for Mr. al-Hawsawi*

Walter B. Ruiz, Esq  
*Civilian Learned Counsel for Mr. al-Hawsawi*

Lieutenant Colonel Sean M. Gleason, USMC,  
JAG  
*Detailed Military Counsel for Mr. al-Hawsawi*

Lieutenant Colonel Jennifer N. Williams,  
USA, JAG  
*Assistant Detailed Military Counsel for Mr. al-Hawsawi*