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Summarized Sworn Detainee Statement

When asked by the Tribunal President if the detainee understood the CSRT process, the Detainee answered, "Yes."

Tribunal President: Do you have any questions concerning the Tribunal process?

Detainee: May I have my legal representative present please?

Tribunal President: No you may not. This is not a legal proceeding it is a Military Tribunal. Do you have any other questions?

Detainee: No.

[After the Recorder read the unclassified summary the Detainee stated the following:]

Detainee: He read something different. The factual basis that I was here is different in some of the particulars...(inaudible). Most likely his will be submitted but this one will be rendered redundant. So I would rather have this one actually submitted as well...(inaudible).

Tribunal President: Do you have a copy of the original there?

Detainee: Yes it was just handed to me by the Personal Representative and he read something different.

Tribunal President: Then we will submit that one as exhibit D-G.

Tribunal President: Do you wish to make a statement to this Tribunal?

Detainee: I did make a defense call, for a witness to be called. This supposed suspected spy who supposedly identified me as his alleged beater.

Tribunal President: When did you make that request?

Detainee: It is in one of the documents, it is defense calls essential witnesses and documentation. I have made a number of defense calls for certain witnesses and certain documents to be presented to the court as evidence.

Tribunal President: I will consider all of those and make a determination on them at a later time.

Detainee: I would like it to be known that the actual suspected spy is present or was present in Guantanamo Bay Cuba as a detainee. I would like him to be called as a

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witness in order to verify what he is saying and to find out why he has alleged me as his beater, when I did not beat him.

Tribunal President: If we determine a witness to be relevant, the witness will have the option of attending or not attending. We will look at that and make a determination then contact the potential witness, if we determine it is relevant.

Tribunal President: You also requested formally through your Personal Representative two witnesses and a document. You requested that your lawyer be allowed as a witness.

Detainee: As a legal advisor to the defense not as a legal advocate in anyway.

Tribunal President: You stated your lawyer would testify about you being illegally held here against International law. This is a Military Tribunal not a legal proceeding, so the request for the lawyer was denied.

Detainee: On the basis that the Tribunal can actually hold me here in incarceration or release me, I would consider this a criminal proceeding.

Tribunal President: The second request you had was for your mother, who you stated would talk to the frame of mind you had prior to leaving the United Kingdom and the reasons why you left home.

Detainee: I actually stated that there was a document which I wrote, my last will and testament, and it was...(inaudible)...that my mother would actually come as a witness to submit the document as evidence.

Tribunal President: I have determined that your frame of mind prior to leaving the United Kingdom is not relevant at this time. Rather what you did while you were in Afghanistan is what is relevant to this Tribunal.

Detainee: The reference is made that I actually left the United Kingdom in order to take action against Americans and Jews. That document actually clarifies that as well as my biography the reasons why I actually left the United Kingdom.

Tribunal President: Your biography was the third item in your request. We have that and will consider it in our deliberations.

Detainee: I would like to make a point, my last will and testament is specific to certain sections in my biography. The biography, because it covers many years is very general and the last will and testament is specific and covers certain parts of the biography and...(inaudible).

Tribunal President: Thank you, we will take that into consideration as well.

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Detainee: The habeas proceeding going on, on my behalf and I believe the actual determination from this... (inaudible)... on the basis to go toward those habeas proceedings. I wonder whether the documents are going to go toward the habeas proceedings?

Tribunal President: To my knowledge none of the evidence submitted today will go to the habeas. The decision itself might. You have a lawyer representing you in the habeas and if he chooses to submit that as part of the habeas that is up to him.

Detainee: I believe that Judge Greene in the United States she requested the basis as to why we are being held here for the habeas petitioners. And the record is actually... (inaudible)... for a common sense review Tribunal. I believe specific basis are presented to her and those documentations will actually go into. Maybe you haven't been informed on this matter.

Tribunal President: I have not. We will check into it and if that is the issue and again we will decide if it is relevant then we will request it and have it submitted as part of the package.

Tribunal President: Please understand this is the first time we have seen the evidence as a panel, so it is difficult sometimes for me to answer the relevancy until after we have seen the evidence. If after we have gone through the Tribunal and we feel that we need this evidence and it is relevant then we will recess and call for the evidence and reconvene at a later time.

Tribunal President: Do you wish to make a statement to this Tribunal?

Detainee: May I be presented with my defense response to the accusations for my designation as an enemy combatant.

[The Detainee was sworn.]

Detainee: This is to be submitted as a document into evidence, so I wrote it as a document rather to be spoke on, but I am going to speak from it anyway, so bear with me.

[Reading]: ... (inaudible)... A.K.A Malcolm X. I am not anti-American and I did not come here to condemn America. I want to make that very clear. I came here to tell the truth and if the truth condemns America, then she stands condemned. ... (inaudible)... the sun rising is splendor. A. Notice. It is my duty as a Muslim to warn all who are involved in this matter that they are personally responsible for their actions at all times before Allah. Allah says in this uncreated world that is the Koran. Is then the man who believes no better than the man who is rebellious and wicked? Not equal are they. For those who believe and do righteous deeds are gardeners as hospitable homes for their good deeds. As to those who are rebellious and wicked their abode will be the fire. Every time they wish to get away there from they will be forced there into and it will be said to them.

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Take ye the penalty of the fire, the which ye will want to reject as false. And indeed we will make them taste of the penalty of this life prior to the supreme penalty in order that they may repent and return. And who does more wrong then one to whom are recited the signs of his lord and who turns away there from. Vary from those who transgress we will exact due retribution. Chapter 32, Al Sajdah, versus 18-22. It is also my duty and pleasure as a Muslim to happily proclaim that Allah will forgive any wrongs we do and/or have done upon sincere repentance. And those who have done something to be ashamed of or wronged their own souls, earnestly bring Allah to mind and ask for forgiveness of their sins and who can forgive sins except Allah. And are never obstinate in persisting knowingly in the wrongs they have done. Fro such the reward is forgiveness from their lord and gardeners with rivers flowing underneath an eternal dwelling how excellent a recompense for those who work and strive. Chapter 3, Al Imran, versus 135-138.

Tribunal President: Excuse me. While I appreciate your concern for our souls I would really like you to get to the relevant information concerning this Tribunal. Directed specifically to the facts relevant to this Tribunal.

Detainee: Okay, I just wanted to let you know. I wanted to make that point as a Muslim it was my duty.

Tribunal President: I appreciate your religious duties. I would appreciate more now that you get to the facts of the Tribunal.

Detainee[reading]: B. Deputy Secretary of Defense Order of July 7, 2004. The Secretary of Defense has established a Combatant Status Review Tribunal process to determine in a fact-based proceeding, whether the individuals detained by the Department of Defense at the U.S. Naval Base Guantanamo Bay, Cuba are properly classified as enemy combatants and are to permit each detainee the opportunity to contest such designation. The arguments in this written presentation are confined and directed to the above. C. Islamic Law. It was we who renewed the laws to Moses, therein was guidance and light. By its standards have been judged the Jews, by the Prophets who bowed as in Islam to Allah's will, by the Rabbis and doctors of law, for to them was entrusted the projection of Allah's book, and they were witnesses thereto. Therefore fear not men, but fear me and sell not my signs for a miserable price. If any do fail to judge by the light of what Allah hath revealed they are no better than unbelievers.

Tribunal President: Once again...

Detainee: This concerns my designation as an enemy combatant. If you will allow me to go through the process you will understand my...

Tribunal President: I will allow you to go through the process if you ever get to the part about what we are here to talk about today, which is your classification as an enemy combatant.

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Detainee: This does concern my classification as an enemy combatant because I am speaking to you on the point of view of Islamic law.

Tribunal President: This is not Islamic law; it has no authority here and has no bearing on these proceedings. This is a Military Tribunal. You have been designated as an enemy combatant against the United States by the U.S. Government. That is what is important here. We do not comply with or consider Islamic law.

[The Personal Representative attempted to hand the Detainee a copy of the unclassified summary.]

Personal Representative: Would you like to look at this, this is the specifics, you wrote some notes about this.

Detainee: I understand, I understand. I know what I am doing.

Detainee [reading]: In July 2003, respondent Bush announced that he had designated Mr. Abbasi an enemy combatant subject to the Executive Military Order of November 13, 2001. D. The Joint Resolution. In the wake of the September 11, 2001 attacks, the United States at the direction of Respondent Bush, began a massive military campaign against the Taliban government, then in power in Afghanistan. On September 18, 2001, a Joint Resolution of Congress authorized the President to use force against the nations, organizations, or persons that planned, authorized, committed, or aided the terrorist attacks on September 11th, 2001 or that harbored such organizations or persons. Defense Response: Unlike the greatest terrorist acts known to history, committed by the United States of America. The atom bombings of the civilian population of Nagasaki and Hiroshima. There has not been shown any adequate, sufficient, and substantial evidence to establish the guilt of Al-Qaida as the very perpetrators of the terrorist attacks of September 11th, 2001. But there has been much unfounded and biased... (inaudible). Therefore based upon the wholesome legal principal of, innocent until proven guilty without a shadow of a doubt, Al-Qaida can be said to be innocent of the terrorist attacks of September 11th, 2001. Unless adequate evidence is presented before a fair and just court of law, which then establishes Al-Qaida as the perpetrators of the terrorist attacks of September 11th without a shadow of a doubt. Al-Qaida being innocent of perpetrating the terrorist attacks of September 11th, Taliban cannot be guilty of harboring terrorist. If Taliban is not guilty of harboring terrorist and Al-Qaida is innocent of the September 11th terrorist attacks then the fundamental basis of Congress' Joint Resolution authorizing the use of necessary and appropriate force against nations, organizations, or persons that planned, authorized, committed, or aided in the September 11th, 2001 attack, Al-Qaida terrorist attacks; not only does not have a leg to stand on, it does not even have buttocks to sit on, nor a back or sides to lie on. In fact the unfounded use of military force commencing I believe on October 9th, 2001...

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Tribunal President: Excuse me. This is your last warning and this is the last time I am going to tell you this. This is not a matter of Al-Qaida this is not a matter of government against government. This is a matter of what you did in Afghanistan.

Detainee: I believe this is a matter of my classification as an enemy combatant.

Tribunal President: It is not. I am here to tell you it is not. These matters are beyond the control and beyond the range of this Tribunal. I am telling you for the final time to confine your discussion to the matters before this Tribunal. I will help you specifically address the matters on the Combatant Status summary of evidence on the combatant status review Tribunals, which specifically address your actions in Afghanistan.

Detainee: Would you, Personal Representative, did you not tell me that I'm here and that Tribunal is going to deal with one thing, my designation as enemy combatant. You never told me specially I had to address those matters. If I want to address my designation as an enemy combatant, by International Law and the Geneva Conventions...

Tribunal President: Once again, International Law does apply, Geneva Conventions do not apply. You have been designated as an enemy combatant. This Tribunal will fairly listen to your explanation of your actions. We will consider what you have written but for the purposes of this Tribunal, for this session, I will once again direct you to address the matters specific to your actions in Afghanistan.

Detainee: Well sir, you told me that I'm here to address my designation as an enemy combatant. ... (inaudible)... I don't see why I should be confined to those matters. I have right here my status. And my status shouldn't be incompetent. I should have P.O.W. status. So, you are telling me I am an enemy combatant. I am telling you by special Geneva Conventions, I am a non-combatant.

Tribunal President: I am telling you...

Detainee: ... (inaudible)... by U.S. law you should hold me as a combatant. But you are saying that I cannot do that. Those accusations frankly if the Recorder would have read my autobiography those accusations would not have been made. In the original... (inaudible)... unclassified... (inaudible)... basis or response there are mistakes that differ from autobiography, you would not have made them.

Tribunal President: Once again, International Law does not matter here. Geneva Convention does not matter here. What matters here and what I am concerned about and what I really want to get to, is your status as enemy combatant based upon the evidence that has been provided and your actions while you were in Afghanistan. If you deviate from that one more time you will be removed from this Tribunal and we will continue to hear evidence without you being present.

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Personal Representative: (to the Detainee, while attempting to hand him the unclassified summary) Do you want to read from this and whatever you said that was specific to this, from our meeting today? Do you realize what he is talking about? These.

Tribunal President: Would you like to have a moment to confer with your Personal Representative, to gather your thoughts?

Detainee: I am just thinking of what ever works. This specific document will do it much better. Okay, Defense call to essential witnesses and documentation.

Tribunal President: Just for clarification and once again. You are not being limited except for the fact that we will consider everything that you have written.

Detainee: I know but I have the right to speak...

Tribunal President: No you don't.

Detainee: And the Personal Representative told me I can say what ever I like.

Tribunal President: He was mistaken if he told you that.

Detainee: Okay.

Tribunal President: But we will consider all of what you have written.

Detainee: This concerns my being said to be a member of Al-Qaida and an Al-Qaida fighter. [reading]: It is unclear whether Mr. Abbasi is or is not a prisoner of war, but this is clearly a question appropriate for inquiry by a competent Tribunal. The answer would depend upon the precise facts of the case and in particular upon the exact relationship between the Taliban, which in our view was as a matter of International Law the government of Afghanistan, even though it was not recognized by the United States as such, and any organization in which he was an active participant in Afghanistan. We understand that it is said Mr. Abbasi was a member of Al-Qaida, but we are not aware of any proof that this is the case, or of any proof of the nature of the relationship between Al-Qaida. This point is important because the definition of a combatant in International Law may be wide enough...

Tribunal President: Once again...International Law...

[The Detainee continued to read from his document, speaking over the Tribunal President, as the Tribunal President attempted to stop him.]

Tribunal President: Mr. Abbasi your conduct is unacceptable and this is your absolute final warning. I don't care about International Law. I don't want to hear the words International Law again. We are not concerned with International Law. I am going to

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give you one last opportunity, for which I am being much more generous and perhaps I shouldn't, but I will give you one last opportunity to address the specifics on the summary of evidence. If you wish to do so you may, if you do not wish to do so we will have you removed.

Personal Representative: (to the Detainee, while attempting to hand him the unclassified summary) Why don't you use this in defense answers to the allegations.

Detainee: Let me see this. I believe the Recorder is suppose to present evidence on the circumstances of my capture.

[The Detainee kept trying to interrupt the Tribunal President as he stated the following:]

Tribunal President: The unclassified evidence the Recorder had to submit has been submitted, and provided for your review. Any other evidence he has, has been classified.

Detainee: So, the government evidence has been classified.

Tribunal President: Any other evidence he...

Detainee: I want to make it aware to this Tribunal that I have a copy of the Combatant Status Review Tribunal process and I am aware of how this Tribunal is to be conducted.

Tribunal President: So are we.

Detainee: That's good, and the Recorder is suppose to present the government evidence based on government information and part of that evidence is the circumstances of my being captured. [The Detainee turned to the recorder and asked:] Is that classified or not Recorder?

Tribunal President: The Recorder is not required to answer your questions. All the unclassified evidence he has, has been submitted.

Detainee: I would like to bring it to the Tribunals attention, The Combatant Status Review Tribunal process. [reading]: E. Combatant Status Review Tribunal Authority. 3. Request the production of such reasonable available information in the possession of the U.S. Government bearing on the issue of whether the detainee meets the criteria to be designated as an enemy combatant including information generated in connection with the initial determination to hold the detainee as an enemy combatant and in any subsequent reviews of that determination as well as any records, determinations, or reports generated in connection with such proceedings...(inaudible)..called herein after the Government Information.

Tribunal President: The Tribunal Recorder has requested a closed session to present further evidence.

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Detainee: I understand that.

Tribunal President: That further evidence will be submitted. Do you wish to address the specifics on your unclassified summary or not? Yes or No.

Detainee: I think no.


Tribunal President: We are going to ask for you to be removed from the Tribunal hearing. Thank you for your time...


Detainee: I would like to make it known to the Tribunal that all your actions will come before Allah and he will be just when allowing consideration for this. And Allah may forgive you and Allah may punish you.

[The Tribunal was recessed to remove the Detainee from the room.]

AUTHENTICATION

I certify the material contained in this transcript is a true and accurate summary of the testimony given during the proceedings.


_____, Col, USAF
Tribunal President

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In the name of Allah, Most Gracious, Most Merciful.

Tuesday 31st August 2004CE / 15th Rajab 1425A.H.

TO WHOM IT MAY CONCERN

RE: US9UK-000024DP's CLAIM OF THE STATUS: PRISONER OF WAR.

NOTICE

I, Feroz Ali Abbasi, in accordance with Geneva Convention III Article 5 and Article 45 of the 1977 Additional Protocol I to the Geneva Conventions ('API'), hereby officially claim the status of prisoner of war, through my U.S civilian attorney, Cristianjeli Cuatrecasas, who is at present here at Guantanamo Bay, Cuba, and has been given express instructions, from myself, to pass this notice on to all persons it may concern.



Feroz Ali Abbasi.

The documents that comprised this number range were withheld from the FOIA production as they were filed in the habeas case under seal pursuant to court order. (Case 04-01137 (RMC))

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DEFENCE CALL TO ESSENTIAL WITNESSES AND DOCUMENTATION

as may be sufficient to support the detainee's classification as an enemy combatant, including the circumstances of how the detainee was taken into the custody of U.S. or allied forces (the evidence so presented shall constitute the "Government Evidence"). In the event the Government Information contains evidence to suggest that the detainee should not be designated as an enemy combatant, the Recorder shall also separately provide such evidence to the Tribunal.

DEFENCE CALL 2: Request that allied-force members who initially captured, helped, and subsequently bound, detainee to be called as witnesses. To clarify circumstances of how detainee was taken into custody of U.S. or allied forces.

DEFENCE CALL 3: Request that F.B.I. agents [redacted] and 'Chris' who initially interrogated detainee at U.S. base at Kandahar Airport and subsequently generated erroneous report be called as witnesses.

DEFENCE CALL 4: Request that F.B.I. agent [redacted] who periodically interrogated detainee between February 2002 - September 2002 (approx) and had subsequently received "erroneous report" to be called as a witness.

DEFENCE CALL 5: Request that Central Intelligence Task Force (C.I.T.F) Sergeant [redacted] and F.B.I. agent [redacted] who interrogated detainee around April 2003 - August 2003 (approx) and April 2002 - June 2002 (approx) respectively, be called (as witnesses) as parties to the classification of the circumstances of how detainee was taken into the custody of U.S. or allied forces.

DEFENCE CALL 6: Request entire Interrogation Case File from past to present be provided to the Tribunal as documentary evidence; ^{including} any such amendments, extractions, deletions, and any other subsequent changes to the initial content of the Interrogation Case File be provided as ~~documentary~~ ^{documentary} evidence to the

tribunal.

DEFENCE ALLEGES EXTRACTION OF GOVERNMENT INFORMATION UNDER DURESS:

DEFENCE CALL 7: Request C.I.T.F. Sergeant [redacted] and F.B.I. agent [redacted] who interrogated detainees around April 2002 - August 2002 (approx.) and April 2003 - June 2003 (approx.) respectively, be called as witnesses to mental and emotional state of detainees during the extraction of Government Information between April 2002 - August 2002.

DEFENCE CALL 8: Request that Building-Four Camp-Echo staff MPs (Key Echo [redacted] or [redacted] and possibly [redacted] from Detroit, Michigan; attached to Buildings Three and Four Camp-Echo from March 19th 2003 - August 10th 2003 (approx.)) be called as witnesses party to the application of mental stress and pressure upon the detainees during the extraction of Government Information between April 2002 - August 2003.

The call is inclusive of but not limited to the NCO who was found as Head over both Building-Three and -Four (Franc Ebor alone, ~~possibly~~ EF; was taken out of recent retirement to be deployed at Guantanamo Bay, Cuba, at the time) whom the detainee alleges, knowingly and willfully mistreated the detainee to pray north (towards America) and, detainee alleges, withdraw comfort items from detainee, and was party to persons who attempted to also withdraw Quarters from the detainee, without official authorization.

The call is inclusive of but not limited to Specialist [redacted] whom the detainee alleges had sex with P.F.C. [redacted] (whom the Defence requests to be called as a witness; Detainee is uncertain of name but presents as approximating) with Specialist [redacted] and P.F.C. [redacted] alike. accused detainee was found

DEFENCE CALL TO ESSENTIAL WITNESSES AND DOCUMENTATION

accus. ~~██████████~~

The call is inclusive of but not limited to Sergeant ██████████ who, the detainee alleges, groped the breasts of, or otherwise sexually fondled a female MP to the effect of, the detainee alleges, a sharp intake of breath by the female MP which, the detainee alleges, distracted him from his prayer which he was praying north to America.

The call is inclusive of but not limited to P.F.C. ██████████ upon the detainee alleges tried to feed the detainee a "hot plate" of pork, attempted to read the detainee's personal mail; and, the detainee alleges, can bear witness to "sounds of sex" emanating from Building-Four which, detainee alleges, Specialist ██████████ and P.F.C. ██████████ were "going at it".

The call is inclusive of but not limited to P.F.C. ██████████ whom the detainee alleges, ate the detainee's peanut butter right in front of him at a time, detainee alleges, when that peanut butter was a significant part of detainee's limited protein intake.

The call is inclusive of but not limited to P.F.C. ██████████ who the detainee alleges along with Specialist ██████████ P.F.C. ██████████ P.F.C. ██████████ and the rest of Day Shift at Building-Four, conspired to keep detainee ignorant of detainee's allotted Tuesday Recreation, detainee alleges, necessary for his intake of sunlight as, detainee alleges, detainee was kept in dim artificial light in a windowless room for days on end.

DEFENCE CALL 9: In light of allegations by detainee Defence requests Photo Profiles of all Building-Four Camp Echo staff MPs (♂ "key hole"; some and possibly some for Detroit, Michigan) who had direct contact with detainee ~~██████████~~ from March 1964 through August 2003, to aid ~~██████████~~ in identifying alleged

witnesses party to the application of mental stress and pressure and allow Defence to question these alleged witnesses party to the application of mental stress and pressure upon the detainee.

DEFENCE CALL 10: Request Doctor who administered to detainee between March 19th 2003 - June 2003 (approx.) and detainee ^{and was partially successful,} alleges attempted ^{and emotional} use of immunisation injections, to unhinge detainee's mental stability and calm to be called as a witness.

DEFENCE CALL 11: In light of Defence Call 10 above Defence requests detainee's ^{entire} Medical Record from past to present be presented to the Tribunal as documentary evidence including any such amendments, extractions, deletions, and other subsequent changes to the initial content of the Medical Record to be presented as documentary evidence to the Tribunal as, detainee alleges, detainee was in good health (all praise is due to Allah) prior to transfer to Building-Four Echo and, detainee alleges, detainee's health has deteriorated ^{ever since.}

DEFENCE CALLS TRIBUNAL'S NOTICE TO: the apparent "connivance" between the alleged extraction of Government Information under duress (April 2003 - August 2003) and the announcement by President Bush on July 2003 that he had designated the detainee an "enemy combatant" subject to the Executive Military Order of November 13, 2001.

PRE-EMPTIVE ASSUMPTION: Assuming that no such initial determination by the President, in writing, subject to the Executive Military Order of November 13th 2001, had been made designating the detainee an "enemy combatant" before, during, or shortly after capture. Defence requests to know what the detainee's status was prior to the President announcing in July 2003 that he had designated the detainee an "enemy combatant"??

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DEFENCE CALL TO ESSENTIAL WITNESSES AND DOCUMENTATION

DEFENCE CALL 12: Detainee claims to have presented a letter to C.I.T.F. Sergeant [REDACTED] (Interrogator, April 2003 - August 2003 approx.) upon the back of which, detainee claims, he drew pictures of dead dogs with speech bubbles in support of detainee's above allegations in the hope that the letter would, detainee claims, by the Grace of Allah, bypass military and reach detainee's mother who, detainee hoped, would save the above and release detainee of his suffering. The Defence requests that the letter be presented to the Tribunal as documentary evidence.

DEFENCE CALL 13: Detainee claims to have written a long letter of ten pages to Detainee's mother numbered 1-3 (i)-(x) respectively and dated Thursday 6th May 2004 (17th Rabi'ul Awwal 1425 A.H) which detainee presented to the Mail Clerk and, detainee claims, supports above allegations. The Defence requests that the letters be presented to the Tribunal as documentary evidence. Defence is aware a copy of each detainee letter, if not the letter itself, is kept here at Guantanamo.

DEFENCE CALL 14:

(VI) Combatant Status Review Tribunal Process: Recorder Qualifications, Roles and Responsibilities: C. Responsibilities of Recorder; (2) The Recorder shall draft a proposed unclassified summary of the relevant evidence derived from the Government Information.

The Defence calls Recorder as witness in order to clarify, define, qualify, and quantify, words and phrases the Recorder used in the unclassified summary of the relevant evidence derived from the Government Information.

The words and phrases used by the Recorder, in the unclassified summary of the relevant evidence from the Government Information, the Defence requests the Recorder to clarify, define, qualify, and quantify, are inclusive of but not limited to:

(a) "DETAINEE";

(VII) During the Vietnam War, the US Military Assistance Command in Vietnam issued comprehensive criteria for classification and disposition of detainees. Annex A of Directive Number 381-46 of December 27, 1967 defined 'detainees' as 'persons who have been detained but whose final status has not yet been determined. Such persons are entitled to humane treatment in accordance with the provisions of the Geneva Conventions.' It further provided for the systematic classification of detainees into 'prisoner of war' and 'non-prisoner of war' categories.

The Defence requires the Recorder to;

- (i) Explain to the Tribunal and Defence the Recorder's use of the word "detainee" in the context of insertion (VII) quoted above?

(VIII) Combatant Status Review Tribunal Process: G. Tribunal Procedures; (1) By July 17, 2004, the governing authority was required to notify each detainee of the opportunity to contest his status as an enemy combatant in the Combatant Status Review Tribunal Process, the opportunity to consult with and be assisted by a Personal Representative, and of the jurisdiction of the courts of the United States to entertain a habeas corpus petition filed on the detainee's behalf. The English language version of this Notice to Detainees is at enclosure (4). All detainees were so notified July 12-14, 2004.

- (ii) Clarify the status of the detainee prior to the detainee being notified in the Combatant Status Review Tribunal Notice to Detainees, "You are being held as an enemy combatant by the United States Armed Forces," on July 13th 2004?

(IX) In July 2003, Respondent Bush announced that he had designated Mr. Abbas: an "enemy combatant" subject to the Executive Military Order of November 13, 2001.

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DEFENCE CALL TO ESSENTIAL WITNESSES AND DOCUMENTATION

(iii) In reference to insertion (IX) above the Defence requires the Records to clarify to the Tribunal and Defence the status of the detainee prior to President Bush's announcement that he had designated the detainee an "enemy combatant".

The Defence calls the Tribunal to note as in Defence Call 1 above and in reference to insertion IX, that it request this announcement by the President of his determination of the detainee an "enemy combatant" and former and latter determinations of this sort by the President to be submitted as documentary evidence to the Tribunal. (See insertions (II), (III), and (IX) as well as 'DEFENCE CALL TRIBUNAL'S NOTICE TO' and 'PRE-EMPTIVE ASSUMPTIONS' on page 3, second side of this document).

(iv) The Defence requires the Records to clarify to the Tribunal and Defence what the status was of the detainee upon capture and transfer to US custody?

(v) The Defence requires the Records to clarify to the Tribunal and Defence what had happened to his designation as a terrorist; and the bold statements of terrorism ~~permitted~~ ^{attributed} to detainees held at Camp X-ray?

(b) "AL QAIDA", "MEMBER OF AL QAIDA", "AL-QAIDA FIGHTERS";

(X) It is unclear whether Mr. Abbas is or is not a prisoner of war, but this is clearly a question appropriate for inquiry by a competent tribunal. The answer would depend upon the precise facts of the case, and in particular upon the exact relationship between the Taliban (which in our view was at a matter of international law the Government of Afghanistan, even though it was not recognized by the United States as such) and any organization in which he was an active participant in Afghanistan. We understand that it is said that Mr. Abbas was a member of Al Qaida, but we are not aware of any proof that this is the case, or of any proof of the

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nature of the relationship between Al Q'aida. This point is important because the definition of a 'combatant' in international law may be wide enough to embrace Al Q'aida fighters if, as a matter of fact, they were integrated into the Taliban command structure.

DEFENCE CALLS TRIBUNALS NOTICE TO: the fact that it is commonly known that Usama bin Laden the leader of Al Qaida pledged his allegiance to Mawiana Muhammad Umar, the leader of the Taliban and, the Commander-of-the-Believers-in-the-Islamic-Emirate-of-Afghanistan. Hence Usama bin Laden and Al Qaida (as well as Jamaat-ul-Jihad which integrated into Al Qaida in the summer of 2001) were certainly integrated into the Taliban command structure and therefore subordinate and in the command of Mawiana Muhammad 'Umar the Commander-of-the-Believers-in-the-Islamic-Emirate-of-Afghanistan.

It is also a commonly known fact that Mawiana Muhammad 'Umar the Commander-of-the-Believers-in-the-Islamic-Emirate-of-Afghanistan was in direct command of all mujahideen (fighters in the Cause of Allah), in the Islamic-Emirate-of-Afghanistan, obligated by their religion, Islam, by the Quran (the Uncreated Word of Allah), and hence by their Lord, Allah, to defend the Law-of-Allah established by the Taliban over the Islamic-Emirate-of-Afghanistan; the peoples of the Islamic-Emirate-of-Afghanistan; and the land, property, resources, institutes, boundaries, faith, economy, national security and so forth of what then constituted the Islamic-Emirate-of-Afghanistan. This should be evident from Mawiana Muhammad 'Umar's title as the Commander-of-the-Believers-in-the-Islamic-Emirate-of-Afghanistan ('Amir al Mumineen').

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The Defence requires the Recorder to:

- (i) Give the Tribunal and Defence a comprehensive definition of "Al Qaida"?

DEFENCE CALL TO ESSENTIAL WITNESSES AND DOCUMENTATION

- (ii) Explain to the Tribunal and Defence how a person becomes a "member of Al Qaida"; through what agency, means, and methods?
- (iii) Explain to the Tribunal and Defence how a person becomes an "Al-Qaida fighter"; through what agency, means, and methods?
- (iv) In the context of, and in reference to, insertion (X) and the 'Defence Calls Tribunals Notice to!' immediately above: the Defence requires the ~~Recorder~~ Recorder to explain in depth, to the Tribunal and Defence ~~how~~, through what means is the detainee designated an "enemy combatant" even though, ~~the~~ the Recorder alleges, the detainee is an "Al Qaida fighter" integrated into the Taliban command structure and therefore by international law would be considered a "combatant" (entitled to prisoner of war status) if the allegations were indeed found to be true?

(C) "MARTYRDOM MISSION";

- (i) The Defence requires the Recorder to: give the Tribunal and Defence a comprehensive definition of "martyrdom mission"?
- (ii) And explain in depth the objective, timing, and target, of the alleged "volunteer" "martyrdom mission" in question?

(d) "ACTION AGAINST AMERICANS AND JEWS";

The Defence requires the Recorder to:

- (i) Explain to the Tribunal and Defence the meaning of "action" in the present context?
- (ii) Explain to the Tribunal and Defence the meaning of "Americans" in the present context?
- (iii) Explain to the Tribunal and Defence the meaning of "Jews" in the present context?

(e) "JIHAD OBLIGATION";

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The Defence requires the Recorder to:

- (i) Give the Tribunal and Defence a comprehensive definition of the word "jihad"?
- (ii) Explain that comprehensive definition in the context of "jihad obligation"?

(iii) Further explain that comprehensive definition in the context of "personal jihad"?

(f) "RECRUITMENT";

The Defence requires the Recorder:

- (i) To explain to the Tribunal and Defence in what context the Recorder used the word "recruitment"?
- (ii) And to further clarify "recruitment" into what?

(g) "APPLICATION FORM";

The Defence requires the Recorder to:

- (i) Explain to the Tribunal and Defence in what context the Recorder used the ~~phrase~~ "application form"?
- (ii) And to further clarify the purpose of the "application form"?

(h) "THE AMERICANS";

The Defence requires the Recorder to:

- (i) Explain to the Tribunal and the Defence the meaning of the word "Americans" used in the context of, "While there, detainees served in a small unit of Al-Qaida fighters, intent on defending the airport against the Americans."?
- (ii) And explain the ~~reason~~ reason for a difference, if any, in this explanation of the word and that of (d)(ii) and how the Recorder came to that reason^{ing}?

(i) "OPERATE";

The Defence requires the Recorder to:

- (i) Explain to the Tribunal and Defence in what way did Osama bin Laden "operate" Camp Faruq?

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(j) "KALASHNIKOV", "PK PISTOL", "RPG", "PK MACHINE GUN";

The Defence requires the Recorder to describe and furnish the Tribunal and

- (i) Defence with statistical data for;

DEFENCE CALL TO ESSENTIAL WITNESSES AND DOCUMENTATION

- (i) "Kalashnikov" and explain the meaning of the word?
- (ii) "PK Pistol" and explain what "PK" stands for?
- (iii) "RPG" and what "RPG" stands for?
- (iv) "AK machine gun" and explain what "AK" stands for in this context?

(K) "SMALL UNIT";

The Defence requires the Recorder to:

- (i) Define for the benefit of the Tribunal and Defence what a "small unit" is?
- (ii) What a "small unit" consists of?
- (iii) And how many persons in a "small unit"?

DEFENCE CALL 15:

The Defence calls the alleged "Identifier" who allegedly identified the detainee as a guard posted at a Taliban officials home to watch a suspected spy.

DEFENCE CALL 26:

The Defence calls the "suspected spy" who was, allegedly, beaten by the detainee, allegedly, because, allegedly, as the detainee explained, it was, allegedly, detainee's personal jihad.

Defence is aware that the "suspected spy" is or was a detainee here at Guantanamo Bay, Cuba, as ^{fact} detainee claims; detainee has faced similar allegations from this interrogator (C.I.T.F. [redacted]).

DEFENCE CALL 17:

The Defence calls for the very unclassified "factual" basis, of detainee's designation as an enemy combatant, shown to the detainee and retained by the Personal Representative, on Sunday 26th September 2004 / 12th Sya'ban 1425AH at 9:00am - 10:00am; just in case the Recorder gets some funny ideas about changing it behind detainee's back in order to save face!

DEFENCE CALL 18: Defence calls handwritten document by detainee upon the subject of "Marston and Teller" presented to interrogator C.I.T.F. [REDACTED] to be presented as documentary evidence.

DEFENCE CALL 19: Defence calls handwritten document by detainee presented to [REDACTED] (C.I.T.F. interrogator) in answer to allegations of "suspected spy" beating. to be presented as documentary evidence.

I'm not anti-American, and I didn't come here to condemn America - I want to make that very clear! I came here to tell the truth - and if the truth condemns America, then she stands condemned! 199
« El-Hajj Malik El-Shabazz a.k.a. Malcolm X. »

Page 1 of 14) Legal Defence Operation: الشَّامُ بَارِزٌ (The Sun Rising in Splendour)*

(A) NOTICE:

It is my duty as a Muslim to warn all who are involved in this matter that they are personally responsible for their actions, at all times, before Allah. Allah says in His Uncreated-Word that is the Qur'an:

"Is then the man who believes no better than the man who is rebellious and wicked? Not equal are they.

"For those who believe and do righteous deeds, are Gardens as hospitable Homes, for their (good) deeds.

"As to those who are rebellious and wicked, their abode will be the Fire; every time they wish to get away therefrom, they will be forced therein, and it will be said to them: "Taste ye the Penalty of the Fire, the which ye were wont to regard as false."

"And indeed We will make them taste of the Penalty of this (life) prior to the supreme Penalty, in order that they may (repent and) return.

"And who does more wrong than one to whom are recited the Signs of his Lord and who turns away therefrom? Verily from those who transgress We shall exact (due) Retribution."

« Chapter 32: Al Sajdah; verses 18-22 »

It is also my duty (and pleasure) as a Muslim to happily proclaim that Allah will forgive any wrongs we do and/or have done upon sincere repentance:

"And those who, having done something to be ashamed of, or wronged their own souls, earnestly bring Allah to mind, and ask for forgiveness for their sins - and who can forgive sins except Allah? - and are never obstinate in persisting knowingly in (the wrong) they have done."

"For such the reward is forgiveness from their Lord, and Gardens with rivers flowing underneath - an eternal dwelling: how excellent a

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recompense for those who work (and strive)!" << Chapter 3: Al 'Imran, verses 135-136

Therefore the conditions of sincere repentance are (a) to ~~ask~~ Allah feel sorry for the sin we have committedly solely for Allah's sake i.e., that we have disobey Him Our Guardian-Lord, (b) to ask Allah to forgive us by raising our hands and pleading for forgiveness and (c) to have the conviction in our hearts that we have abandoned that sin and will not repeat it.

Even if we repeat that same sin seventy times in one day as long as we sincerely repeat seventy times ~~we~~ ~~say~~ (i.e., after each time we commit the sin) Allah will forgive us. It is not Allah that tires ~~of~~ ^{of} forgiving sin it is Man that tires from asking forgiveness.

(B) DEPUTY SECRETARY OF DEFENSE ORDER OF JULY 7, 2004:

"The Secretary of Defense has established a Combatant Status Review Tribunal (CSRT) process to determine, in a fact-based proceeding, whether the individuals detained by the Department of Defense at the U.S. Naval Base Guantanamo Bay, Cuba, are properly classified as enemy combatants and to permit each detainee the opportunity to contest such designation."

The arguments in this Written Presentation are confined and directed to the above.

(C) ISLAMIC LAW:

"It was We who revealed the Law (to Moses): therein was guidance and light. By its standards have been judged the Jews, by the Prophets who counsel (as in Islam) to Allah's Will, by the Rabbis and Doctors of Law: for to them was entrusted the protection of Allah's Book, and they were witnesses thereof: therefore fear not man, but fear Me, and sell not My Signet for a miserable price. If any do fail to judge by (the light of) what Allah hath revealed, they are (no better than) Unbelievers.

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"We ordained therein for them: "Life for life, eye for eye, nose for nose, ear for ear, tooth for tooth, and wounds equal for equal." But if any remits the retaliation by way of charity, it is an act of atonement for himself. And if any fail to judge by (the light of) what Allah hath revealed, they are (no better than) wrong-doers.

"And in their footsteps We sent Jesus the son of Mary, confirming the Law that had come before him: We sent him the Gospel: therein was guidance and light, and confirmation of the Law that had come before him: a guidance and an admonition to those who fear Allah.

"Let the People of the Gospel judge by what Allah hath revealed therein. If any do fail to judge by (the light of) what Allah hath revealed, they are (no better than) those who rebel.

"To thee We sent the Scripture in truth, confirming the scripture that came before it, and guarding it in safety: so judge between them by what Allah hath revealed, and follow not their vain desires, diverging from the Truth that hath come to thee. To each among you We have prescribed a Law and an Open Way. If Allah had so willed, He would have made you a single people, but (His Plan is) to test you in what He hath given you; so strive as in a race in all virtues. The goal of you all is to Allah; it is He that will show you the truth of the matters in which ye dispute;

"And this (He commands): judge them between them by what Allah hath revealed, and follow not their vain desires, but beware of them lest they beguile thee from any of that (teaching) which Allah hath sent down to thee. And if they turn away, be assured that for some of their crimes it is Allah's purpose to punish them. And truly most men are rebellious.

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“Do they then seek after a judgement of Ignorance? But who, for a people whose faith is assured, can give better judgement than Allah? « Chapter 5: Al Maidah; verses 44-50 »

“Those who persecute (or draw into temptation) the Believers, men and women, and do not turn in repentance, will have the Penalty of Hell: they will have the Penalty of the Burning Fire.” « Chapter 85: Al Buruj; verse 10 »

Allah alone has the right to judge man. Man can only oppress another man by judging him. Therefore on that basis I contest my designation as an “enemy combatant.” (See reference quotation below:)

“In July 2003, Respondant Bush announced that he had designated Mr. Alhassani as an ‘enemy combatant’ subject to the Executive Military Order of November 13, 2001.”

(D) THE JOINT RESOLUTION :

“In the wake of the September 11, 2001 attacks, the United States, at the direction of Respondant Bush, began a massive military campaign against the Taliban government, then in power in Afghanistan. On September 18, 2001, a Joint Resolution of Congress authorized the President to use force against the “nations, organizations, or persons” that “planned, authorized, committed, or aided the terrorist attacks on September 11th, 2001, or [that] harbored such organizations or persons.” (Joint Resolution 23, Authorization for Use of Military Force, Public Law 107-40, 115 Stat. 224 (Jan. 18, 2001).)”

DEFENCE RESPONSE :

Unlike the Greatest Terrorist Acts known to history. Committed by the Terrorist United States of America. The atom bombings of the CIVILIAN population of Nagasaki and Hiroshima. There has not been shown any adequate, sufficient, and substantial evidence to establish the guilt of Al Qaidah as

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the very perpetrators of the terrorist attacks of September 11th, 2001. But there has been much unfounded and biased conjecture.

Therefore based upon the wholesome legal principle of, "innocent until proven guilty WITHOUT A SHADOW OF A DOUBT", Al Qaidah can be said to be INNOCENT of the terrorist attacks of September 11th, 2001 unless adequate evidence is presented before a fair and just Court of Law which then establishes Al Qaidah as the perpetrators of the terrorist attacks of September 11th WITHOUT A SHADOW OF A DOUBT.

Al Qaidah being innocent of perpetrating the terrorist attacks of September 11th Taliban cannot be guilty of harbouring terrorists!

If Taliban is not guilty of harbouring terrorists and Al Qaidah is innocent of the September 11th terrorist attacks then the fundamental basis of Congress' Joint Resolution authorizing the use of necessary and appropriate force against nations, organizations, or persons that planned, authorized, committed, or aided in the September 11, 2001, Al Qaeda terrorist attacks; not only does not have a leg to stand on; it does not even have buttocks to sit on; nor a back or sides to lie on!

In fact the unfounded use of military force, commencing I believe on October 9th 2001, is merely a repeat of the yet again unfounded cruise bombings of The Islamic-Emirate-of-Afghanistan, an ACT OF WAR I might add, after the Oklahoma bombing to which yet again Usama bin Laden was accused yet again without adequate evidence and yet again was unjustly attacked.

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So, recent history has proven that the Terrorist United States of America has had an unjustifiable and unreasonable habe for the Islamic-Emirate-of-

Afghanistan. Why so? The very words of your Commander-in-Chief reveal all:

“
“
Trigade
””

This point is made even more heinous by the subsequent point that Osama bin Laden possessed a fax line with the Terrorist American government. That through that fax line he was WARNED to the similar purport of, "The Americans are going to bomb in one month's time"! Knowledge only a handful could have possessed, all I would surmise within the upper echelons of the American government itself. Events were true to the news.

Not only that ~~but~~ ~~the~~ the U.S. Military "telegraphed" its intentions to bomb via civilian radio transmission by telling Northern Alliance to, "Ground their planes"! Further fuel to add to the plausible suspicion that the U.S.A.'s government was in cahoots with Osama bin Laden!

Therefore George W. Bush's "War on Terrorism" is nothing of the sort. It is but a puppet show pretence to truth and justice. The real war is clear to all with a sense of truth, justice, and fair play; it is a war on the Muslims, a war on Islam; a pathetic attempt at warring against Allah - a Crusade.

As to the perpetrators of the terrorist attacks of September 11th 2001 I would suggest those who truly want to know the answer to that dilemma (certainly the Americans do not) to look to those who gained the most from that crime. It certainly can not be the Muslims who have suffered greatly and can rightly be considered as the On-going Victims of September 11, 2001. 000637

I end this response with a quote from Arthur Conan Doyle's "Sherlock Holmes":

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"The difficulty is to detach the framework of fact - of absolute undeniable fact - from the embellishments of theorists and reporters. Then, having established ourselves upon this sound basis, it is our duty to see what inferences may be drawn, and which are the special points upon which the whole mystery turns."

(E) THE DETENTION ORDER

"On November 13, 2001, Respondent Bush issued a Military Order authorizing indefinite detention without due process of law. The Order authorizes Respondent Rumsfeld to detain anyone Respondent Bush has 'reason to believe':

- i. is or was a member of the organization known as Al Qaeda;
- ii. has engaged in, aided or abetted, or conspired to commit, acts of international terrorism, or acts in preparation therefor, that have caused, threaten to cause, or have as their aim to cause, injury to or adverse effects on the United States, its citizens, national security, foreign policy, or economy; or
- iii. has knowingly harbored one or more individuals described in subparagraphs (i) and (ii).

See Military Order of November 13, 2001. President Bush must make his determination in writing. The Order was neither authorized nor directed by Congress, and is beyond the scope of the Joint Resolution of September 18, 2001.

(F) COMBATANT STATUS REVIEW TRIBUNAL NOTICE TO DETAINEES

"You are being held as an enemy combatant by the United States Armed Forces. An enemy combatant is an individual who was part of or supporting Taliban or al Qaeda forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. The definition includes any person who has committed a belligerent act or has directly supported such hostilities!"

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DEFENCE RESPONSE:

- (i) Innocent until proven guilty;
- Adequate evidence would have to be shown before a fair and just Court of Law

and the full panoply of legal assistance ^{afforded to me} ~~before~~ before such a statement as, "You are being held as an enemy combatant..." can be fully justified.

It seems the concept of "evidence" is a foreign one to the U.S. Government and its Military.

- (ii) No definition whatsoever is given to clarify the terms, "...part of or supporting, 'Taliban', 'Al Qaeda'."

Accurate definitions seem also to be a ~~too~~ highly advanced concept for the 21st Century American government and its Military. Such ambiguity allows the American government to side step justice truth and fair-play giving them an unfair and underhanded advantage over the defense or so they think. Little do they know the truth is on our side!

- (iii) Further quoting from the Combatant Status Review Tribunal Notice to Detainees, it states, "This is not a criminal trial and the Tribunal will not punish you,..."

Quote from the Combatant Status Review Tribunal Process: I. Post-Hearing Procedures; (9) If the Tribunal determines that the detainee shall no longer be classified as an enemy combatant, and the Director, CSRT, approves the Tribunal's decision, the Director, CSRT, shall forward the written report of the Tribunal's decision directly to the Secretary of the Navy. The Secretary of the Navy shall so advise the DoD Office of Detainees Affairs, the Secretary of State, and any other relevant U.S. Government agencies, in order to permit the Secretary of State to coordinate the transfer of the detainee with representatives of the detainee's country of nationality for release or other disposition consistent with applicable laws. In these cases the Director, CSRT, will ensure coordination with the Joint Staff with respect to detainee transportation issues."

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Therefore by the undisputable fact that the Tribunal can relieve the suffering of a detainee or prolong; it goes contrary to the whimsical claim, "This is not a criminal trial and the Tribunal will not punish you,..." But we are not complaining, quite to the contrary, bring it on! Our Lord says in the Qur'an:

"And slacken not in following up the enemy! if you are suffering hardships, they are suffering similar hardships, but you have hope from Allah, while they have none. And Allah is full of knowledge and wisdom." « Chapter 4: Al Nisa'; 104 »

(G) IN THE MATTER OF THE DETENTION OF MR FEROFZ ABBASI AT US QUANTANAMO BASE, CUBA:

1. We understand that Mr. Abbasi is held under the United States Presidential Order dated 13 November 2001. This advice is based upon the text of the Presidential Order currently (14 February 2002) displayed on the US Government website, (at <http://www.whitehouse.gov/news/releases/2002/01/2001111327.html>.)
2. The Order does not automatically apply to anyone: it applies only to those individuals who have been determined by the President, in writing, to be a non-US citizen whom there is reason to believe was at the 'relevant times' (and the Order does not define the 'relevant times') a member of al Qaeda or engaged in international terrorism aimed at United States interests, or harbored any such persons, and whom it is in the interests of the United States to make subject to the Presidential Order (Section 2). We do not know whether such a written determination has been made in respect of Mr. Abbasi.

Mr. Abbasi's status

3. As far as Mr. Abbasi's status is concerned, as a matter of international law there are only three possibilities: (i) he may be a combatant, now held as a prisoner of war; (ii) he may be a civilian detainee, now interned; or (iii)

he may be an unlawful combatant, now detained, either pending trial or simply detained and not pending trial.

4. If Mr. Alhassani is a prisoner of war, his detention is governed by the terms of Geneva Convention III. He could not be required to give any information to the US authorities other than his name, rank, serial number and date of birth. He could not be prosecuted for his involvement in the hostilities; he could be prosecuted for war crimes and crimes against humanity. He would be entitled to be released and repatriated without delay after the cessation of hostilities. [GCIII, art. 128].
5. The United States denies that Mr. Alhassani is a prisoner of war. As a matter of law that question is regulated by GCIII Article 5 and Article 45 of the 1977 Additional Protocol I to the Geneva Conventions ("API").
6. The United States has not ratified API. However, in the Operational Law Handbook (JA 422) issued by the Judge Advocate General's School, United States Army, Charlottesville, Virginia, in 1997, it is stated, "that the US views [among others, Article 45 API] as customary international law" (page 18-2) which would bind the United States along with all other States. The Handbook summarizes Article 45 in the following terms: "prisoner of war presumption for those who participate in the hostilities."
7. This statement is qualified in the 2002 edition of Operational Law Handbook, in which it is now said that the US views article 45 API as "Customary international law or acceptable practice though not legally binding" (Ch. 2, p. 11). It is practically inconceivable that the customary international law has changed in this way since 1997, in any event it would arguable before an international tribunal that the United States is estopped from denying that API represent customary international law.

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particularly given the fact that 159 States have now ratified Additional Protocol I (such an argument would, however, be less likely to succeed before a United States court or tribunal).

8. API stipulates that if Mr. Abbasi 'claims the status of prisoner of war, or if he appears to be entitled to such status, or if the party on which he depends claims such status on his behalf by notification' to the United States, he is presumed to be a prisoner of war, and retains that status until such time as his status has been determined by a competent tribunal. It is not known whether prisoner of war status has been claimed by or on behalf of Mr. Abbasi. In our view, however, such status could be claimed ~~on his behalf~~ by or on behalf of Mr. Abbasi. In our view, however, such status could be claimed on his behalf, certainly by the British Government, and possibly by his legal representatives. (Some doubt as to the right of his legal representative to make the claim flows from the fact that API does not expressly give such a right, although earlier US practice has confirmed the role of counsel in proceedings to determine status; see further below). We understand that the United States has not submitted the question of Mr. Abbasi's status to a competent tribunal.)

9. In our view, the United States is obliged to submit the question of Mr. Abbasi's status to a competent tribunal, which is also consistent with the practice of the United States in other theatres of operations.

10. During the Vietnam War, the US Military Assistance Command in Vietnam issued comprehensive criteria for classification and disposition of detainees. Annex A of Directive Number 332-46 of December 27, 1967 defined 'detainees' as 'persons who have been detained but whose final status has not yet been determined. Such persons are entitled to humane treatment in accordance with the provisions of the Geneva Conventions.'

It further provided for the systematic classification of detainees into 'prisoner of war' and 'non-prisoner of war' categories.

11. Among the non-prisoner of war class, the directive included civilian dependants liable to trial by the Government of Vietnam for offences under local laws, as well as certain categories of 'irregulars', such as guerrillas 'detained while not engaged in actual combat' and a detainee 'suspected of being a spy, saboteur or terrorist'.

12. Directive Number 20-5 of March 15, 1968 made extensive provision for the determination of eligibility for prisoner of war status applicable, among others, to 'non-prisoner of war and doubtful cases who are captured by or are in the custody of United States forces.' The Directive relied expressly on Article 5 G.C.III. It provided that 'All United States military and DOD civilian personnel who take or have custody of a detainee will...

(2) Afford to each detainee in their custody treatment consistent with that of a prisoner of war, unless or until it has been determined by competent authority in accordance with this directive that the detainee is not a prisoner of war.'

13. The Directive provided further in relation to the rights of the detainee that, 'No person may be deprived of his status as a prisoner of war without having an opportunity to present his case with the assistance of a qualified advocate or counsel', and that, 'The Detainee shall have the right to be present with his counsel at all open sessions of the tribunal.'

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14. The Directive made extensive provision for the 'Rights of Counsel for the Detainee' including 'a period of at least one week before the hearing in order to prepare his case', free access to visit the detainee and interview him in private', a 'reasonable opportunity to confer privately with essential witnesses

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including prisoners of war, and rights of cross-examination and presentation of witnesses and testimony.

15. It is unclear whether Mr. Abbasi is or is not a prisoner of war, but this is clearly a question appropriate for inquiry by a competent tribunal. The answer would depend upon the precise facts of this case, and in particular upon the exact relationship between the Taliban (which in our view as a matter of international law the Government of Afghanistan, even though it was not recognised by the United States as such) and any organisation in which he was an active participant in Afghanistan. We understand that it is said that Mr. Abbasi was a member of Al Q'aida, but we are not aware of any proof that this is the case, or of any proof of the nature of the relationship between Al Q'aida. This point is important because the definition of a 'combatant' in international law may be wide enough to embrace Al Q'aid fighters if, as a matter of fact, they were integrated into the Taliban command structure. [NOTE: Mullah Muhammad Umar, the leader of Taliban, was also the Commander of the Believers in the Islamic Emirate of Afghanistan i.e., "Amir ul Mumineen". Osama bin Laden prior to September 11th 2001 had pledged his allegiance to Amir ul Mumineen Mullah Muhammad Umar and therefore was subordinate and subjected to the Amir ul Mumineen. Al Q'aida being a secret and exclusive organisation even in the Islamic Emirate of Afghanistan can arguably be said to have been 'integrated into the Taliban command structure.' The term 'Al Q'aida fighters' needs to be accurately, unambiguously, and publically defined because, personally, I cannot see how there can be an 'Al Q'aida fighter' when the ^{ordinary} members of Al Q'aida ^{if such exists} were ~~secreted~~ in secrecy even in the Islamic Emirate of Afghanistan.]

16. If Mr. Abbasi were a civilian detainee, his internment would be governed by the terms of Geneva Convention ^(IV). He would be entitled to visits, communications, and other privileges, and to be released as soon as the reasons, which

necessitated his internment no longer exist [GCIV, art. 132].

17. Even if the exceptional provisions of Article 5 GCIV^{IV} apply and a person is detained in the territory of a Party to the conflict/occupied territory 'as a person under definite suspicion of activity hostile to the security of the Occupying Power', such he or she shall be treated with humanity and, 'in case of trial, shall not be deprived of the rights of fair and regular trial prescribed by the present convention.'
18. Internees in the territory of a Party to the conflict against whom penal proceedings are pending for offences not exclusively subject to disciplinary penalties, may be detained until the close of such proceedings and, if circumstances require, until the completion of the penalty: (Art. 137, GCIV.) However, the provisions of Articles 71-76 GCIV inclusive shall apply by analogy to proceedings against internees who are in the national territory of the Detaining Power: Art. 126 GC IV.
19. Among other, Article 72 provides for rights of defence, including assistance by a qualified advocate or counsel of their choice, 'who shall be able to visit them freely and shall enjoy the necessary facilities for preparing the defence.'
20. We understand that the United States does not regard Mr. Abbasi as an internee within the terms of GCIV.
21. The third possibility is that Mr. Abbasi is an unlawful combatant, entitled to treatment neither as a combatant prisoner of war nor as a civilian internee. This appears to be the status that the United States regards him as having.

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22. Unlawful combatants are not without rights. They are entitled to the minimum standard of treatment set out in API article 75. Article 75 is among those recognized by the United States in 1997 as representing customary international law. Article 75 reads as follows:-

Art 75. Fundamental guarantees

1. In so far as they are affected by a situation referred to in Article 1 of this Protocol, persons who are in the power of a Party to the conflict and who do not benefit from more favourable treatment under the Conventions or under this Protocol shall be treated humanely in all circumstances and shall enjoy, as a minimum, the protection provided by this Article without any adverse distinction based upon race, colour, sex, language, religion or belief, political or other opinions, national or social origin, wealth, birth or other status, or on any other similar criteria. Each Party shall respect the person, honour, convictions and religious practices of all such persons. [Fundamental guarantees which have been violated time and time again. Especially concerning our religious practices!]

2. The following acts are and shall remain prohibited at any time and in any place whatsoever, whether committed by civilian or by military agents:-

(a) violence to the life, health, or physical or mental well-being of persons, in particular:

(i) murder;

(ii) torture of all kinds, whether physical or mental;

(iii) corporal punishment; and

(iv) mutilation; [My very testicles have been mutilated under what I can only guess to be a desperate attempt by the Establishment to make my beard grow via the guise of "immunisation injections" in order to make me more eligible for residence ^{denying} they desperately desire to pin upon myself. See letter written to Mother titled, Adventures of

Sharlock Holmes; Adventure XXIV. - "The Beardless Face Mystery" written on Wednesday 2nd April 2004 / 14/04/1425 A.H (Islamic date).

(b) outrages upon personal dignity, in particular humiliating and degrading treatment [I certainly have not forgotten being molested by three different American fingers, at different times, two within the space of twenty minutes, violating my anus, the last of which seemed to take great pleasure from it so much so he satiated himself by repeatedly pushing and pulling his finger within my rectum], enforced prostitution and any form of indecent assault;

(c) the taking of hostages;

(d) collective punishments; and

(e) threats to commit any of the foregoing acts.

3. Any person arrested, detained or interned for actions related to the armed conflict shall be informed promptly, in a language he understands, of the reasons why these measures have been taken. Except in cases of arrest or detention for penal offences, such persons shall be released with the minimum delay possible and in any event as soon as the circumstances justifying the arrest, detention or internment have ceased to exist.

4. No sentence may be passed and no penalty may be executed on a person found guilty of a penal offence related to the armed conflict except pursuant to a conviction pronounced by an impartial and regularly constituted court respecting the generally recognized principles of regular judicial procedure, which include the following:

(A) the procedure shall provide for an accused to be informed without delay of the particulars of the offence alleged against him and shall afford the accused ~~before~~ and during his trial all necessary rights and means of defence; (our emphasis)

(b) no one shall be convicted of an offence except on the basis of individual personal responsibility;

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DEFENCE RESPONSE TO UNCLASSIFIED "FACTUAL" BASIS OF DETENTION



(c) no one shall be accused or convicted of a criminal offence on account of any act or omission which did not constitute a criminal offence under the national or international law to which he was subject at the time when it was committed; nor shall a heavier penalty be imposed than that which was applicable at the time when ^{the Criminal offence} ~~the offence~~ was committed; if, after the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby;

(d) anyone charged with an offence is presumed innocent until proved guilty according to law; [A provision, it seems, America has conveniently forgotten.]

(g) anyone charged with an offence shall have the right to examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(h) no one shall be prosecuted or punished by the same Party for an offence in respect of which a final judgement acquitting or convicting that person has been previously pronounced under the law and judicial procedure;

(i) anyone prosecuted for an offence shall have the right to have the judgement pronounced publicly; and

(j) a convicted person shall be advised on conviction of his judicial and other remedies and of the time-limits within which they may be exercised.

[5. Women whose liberty has been restricted for reasons related to the armed conflict shall be held in quarters separated from men's quarters. They shall be under the immediate supervision of women. Nevertheless, in cases where families are detained or interned, they shall, where possible, be held in the same place and accommodated as family units

6. Persons who are arrested, detained or interned for reasons related to

the armed conflict shall enjoy the protection provided by this Article until their final release, repatriation or re-establishment, even after the end of the armed conflict.

7. In order to avoid any doubt concerning the protection and trial of persons accused of war crimes or crimes against humanity, the following principles shall apply:

(a) persons who are accused of such crimes should be submitted for the purpose of prosecution and trial in accordance with the applicable rules of international law; and

(b) any such persons who do not benefit from more favourable treatment under the Conventions or this Protocol shall be accorded the treatment provided by this Article, whether or not the crimes of which they are accused constitute grave breaches of the Conventions or of this Protocol.

8. No provision of this Article may be construed as limiting or infringing any other more favourable provision granting greater protection under any applicable rules of international law, to persons covered by paragraph 1.

23. Article 75 represents the minimum standard of treatment to which Mr. Abbas is entitled [except when captured as a prisoner of a crusade]. That is so regardless of whether he is a prisoner of war, civilian internee, or unlawful combatant.

Mr. Abbas's detention

24. In so far as Mr. Abbas's detention is concerned, the entitlement of the United States to detain him without proceeding to try him for any offence is limited. It was noted above that prisoners of war and civilian

DEFENCE RESPONSE TO UNCLASSIFIED "FACTUAL" BASIS OF DETENTION

Internees must be released as soon as possible after the end of hostilities or the cessation of the circumstances that warranted their detention.

25. The United States may claim that they are entitled by the right of self-defence to detain Mr. Abbas, in order to avert a real and imminent threat to the United States. The generally-accepted statement of the criteria of self-defence appears in the correspondence concerning the Caroline incident, where it was said that there must be shown "a necessity of self-defence, instant, overwhelming, leaving no choice of means, and no moment for deliberation", and further that the State invoking self-defence must do "nothing unreasonable or excessive; since the act, justified by the necessity of self-defence, must be limited by that necessity, and kept clearly within it." [British & Foreign State Papers, vol. 29, p. 1137]. Article 51 of the UN Charter recognizes that the right of self-defence may be exercised by any single State, and also by States acting in exercise of the right of collective self-defence. That might be said to warrant Mr. Abbas's detention in order to avert a threat to any of the United States' NATO allies.

26. It is a question of fact whether the circumstances warrant the exercise of a right of self-defence by the United States. Mr. Abbas might have presented a danger to the United States immediately after September 11, 2001. He might have presented such a danger when he was in Afghanistan and would clearly have done so if he were engaged in hostilities against United States or other NATO forces operating lawfully in Afghanistan (and for present purposes we assume that the United States action in Afghanistan was, as a matter of international law, lawful). [I personally would dissent. The U.S. action in the Islamic Emirate of Afghanistan was not lawful. The U.S. did not have any legitimate cause whatsoever except that of, quoting Bush, "Crusade", to attack the Islamic Emirate, tear down Allah's Law, and replace it with oppressive democracy!] But he plainly cannot

be held indefinitely without trial on this basis.

27. If Mr. Abbas is facing prosecution by the United States, his detention for a reasonable period pending trial will be lawful. If he is a prisoner of war he could be prosecuted only for war crimes and crimes against humanity. If he is an unlaureled combatant he could be prosecuted for his involvement in hostilities; for example, he could be prosecuted for the attempted murder of any United States soldiers against whom he fought. [Such an example is highly amusing to me. It places the words "United States soldiers" in the same sentence with the word "fought". There were no United States soldiers on the ground fighting. They were either high, high, high, up in the air, were white specks against a blue backdrop, or ^{we meant on their front} if, and I would doubt it, a handful, I emphasize the words they would have been miles and miles away from any danger. The ground troops came away after the fighting had ceased—at least a week after Kandahar fell. I repeat there were no United States soldiers on the ground. Such a statement would be a merely empty pretense of bravado.]

Mr. Abbas's right of access to a lawyer

28. If Mr. Abbas is or may be facing prosecution, Art I Article 75(4)(a), set out above, expressly entitles him to "all necessary rights and means of defence" that must include a right of access to a lawyer. That right is reinforced by similar provisions in other international agreements. Two instruments, to both of which the United States is a party, are particularly significant. The American Declaration of the Rights and Duties of Man sets out various entitlements to equality before the law (Article II), ⁽ⁱ⁾ resort to the courts (Article XVIII) to submit petitions to competent authorities (Article XXIV), and to be ⁽ⁱⁱ⁾ presumed innocent until proven guilty (Article XXVI). [!]

FAT CHANCE!

29. The International Covenant on Civil and Political Rights sets out the right

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of every person to life (Article 6), the right to liberty and freedom from arbitrary detention [ha!] (Article 9), to treatment with respect for their humanity and inherent dignity (Article 10) and to equality before the law and to adequate facilities for the preparation of his defence (Article 14).

30. In our opinion, those instruments all establish a right of access to a lawyer, for any person facing possible prosecution. Moreover, in the particular circumstances of this case the right of access arises in two ways. First, Section 2(a) (i) of the United States Presidential Order indicates that the President has already determined in writing that he has reason to believe that Mr. Abbasi has committed one or more of the offences set out thereafter at (i), (ii), and (iii). There are similar offences to those faced by John Philip Walker Lindh in the criminal proceedings he faces in the US District Court of Virginia, having been detained, it will be remembered, in Afghanistan. Mr. Abbasi plainly faces the real prospect of prosecution [if only the Americans could somehow bypass the troublesome thing called "evidence"]. There would otherwise be no reasonable basis to detain him. Whether in due course he is actually prosecuted is a different question and one that does not affect the issue of legal access. Mr. Abbasi is entitled to seek legal advice so as to present his position in such a light that he is not prosecuted. English jurisprudence is clear upon the point, as is European Strasbourg jurisprudence. Secondly, access might arise in the context of proceedings before the "competent tribunal" that would determine Mr. Abbasi's right to the status of a prisoner of war. The international instruments do not explicitly establish such a right for persons who are detained without facing prosecution, but in our view such a right is implicit in all of the instruments cited.

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31. These rights may be the subject of derogations where, broadly speaking, it is necessary to do so in order to preserve public safety in time of public emergency; see American Declaration on the Rights and Duties of Man,

Article ⁽¹²⁾ XXVIII, International Covenant on Civil and Political Rights, Article 4. Any such derogation must be limited to what is necessary to preserve public safety. Again, there is no evidence to suggest that the denial of access to a lawyer is strictly necessary in order to protect public safety.

32. No derogation from its obligations under the International Covenant on Civil and Political Rights has been declared by the United States, or communicated to any of the other 114 States Parties through the intermediary of the UN Secretary-General, as required by Article 4(3).
33. Article 14 ICCPR 66, it will be recalled, requires adequate facilities for the preparation of a defence, and declares that "All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him or of his rights and obligations at law, everyone shall be entitled to a fair and public hearing by a competent independent and impartial tribunal established by law [ha!]"
34. In the present case, it is difficult to see how it can be argued that the denial of access to a lawyer is strictly necessary in order to defend the United States. The question is whether the prisoner is any more of a threat to the United States if he has access to a lawyer than he is if he does not. It is very difficult to see that this could be so. Only if there were a reasonable fear that Mr. Abbasi's contact with a lawyer might enable items or communications prejudicial to public safety in or out of the prison could this be maintained. Moreover, that fear would have to be one arising in the specific case of Mr. Abbasi and his lawyers. Mr. Abbasi's right may not be suspended because there is a reasonable fear that lawyers visiting other prisoners might constitute such a danger. In any event, no argument to this effect has been made out by the United States.

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35. It might be argued by the United States that access to a lawyer could impede the process of interrogation. Even if, as a matter of fact, this were true, it would be relevant only in so far as the interrogation was the only means available to enable the United States to defend its vital interests, in accordance with the circumstances in which derogations from human rights instruments are permitted. There is no evidence to suggest that this is the case; and given the length of time for which the prisoner has already been available for questioning, it is difficult to believe that any such case could be made out. Moreover, this argument would be relevant only in so far as the interrogation did not involve the application of internationally unlawful force or pressure to the prisoner; international law does not permit States to suspend their basic humanitarian duties, and self-defence could not operate so as to permit the use of torture or other internationally unlawful pressure to the prisoner. Even if a State had a right not to have lawful interrogations impeded, that right could not extend to unlawful interrogation.

36. There is a further and important reason why the United States may not suspend the right of access to a lawyer in this case. The Presidential Order of 13 November 2001 specifically excludes from its scope US nationals. No US prisoners are as a matter of law thus discriminated against in relation to their access to lawyers and to right to petition courts in the United States or other countries and international tribunals. This is objectionable on three grounds.

37. First, Guantanamo Bay is Cuban territory, currently leased by the United States: see Article 3 of the Agreement Between the United States and Cuba for the Lease of Lands for Coaling and Naval Stations, February 23, 1903. The apparent claim in the 13 November 2001 Presidential Order that the United States may forbid foreign nationals outside United States territory to petition non-United States courts is entirely without found

ration as a matter of international law. The United States has no competence to give any such order: it lies beyond the reach of United States' jurisdiction.

38. Second, by discriminating between the Cuban prisoners on the basis of their nationality, the United States is violating its international legal duties to maintain the equality of all persons before the law, without discrimination. The duty is set out in the American Declaration on the Rights and Duties of Man (Article III), the International Covenant on Civil and Political Rights (Article 2), and API (Article 75(1)). The United States is not entitled to deny to British nationals rights that it gives to its own nationals.

39. Third, notwithstanding its characterisation under US law, Guantanamo is clearly a place for which the United States is responsible and in respect of which the international obligations of the United States apply...
Stephen Solley QC, Chester Chambers
Prof. Vaughan Lowe, Essex Court Chambers
Prof. Craig Goodwin-Gill, Blackstone Chambers

The above is a Council's opinion which was written by senior leading Council, Stephen Solley QC, Chair of the Bar Human Rights Committee together with two leading academics in the field of international human rights law to whom I send my appreciative thanks.

As Lord Goldsmith, the British Attorney General said,

"There will always be matters which are not open to governments.

Certain rights - for example the right to life, the prohibition on torture, on slavery - are simply non-negotiable.

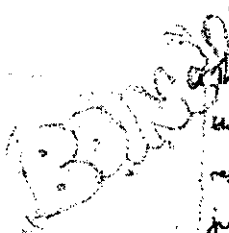
There are others such as the presumption of innocence or the right to a fair trial by an independent and impartial tribunal established

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by laws, where we cannot compromise on long-standing principles of justice and liberty, even if we may recognize that there may sometimes be a need to guarantee these principles in new or different ways.

(See Lord Goldsmith, Terrorism and Justice: The British Perspective from the Attorney General, Speech at the Cour de Cassation (June 25, 2004), available at http://news.bbc.co.uk/2/hi/uk_news/politics/3839153.stm)



The manner in which Petitioner has been treated in Guantanamo Bay, and the "tribunal" that has been organized to try him - defenized by another respected British jurist, Lord Steyn, as a court that is a "mockery of justice" and that "derives from the jumps of the kangaroo" - cannot pass muster under the most basic and fundamental descriptions of due process.

Therefore under the basis that the Combatant Status Review Tribunal is a "mockery of justice" and "derives from the jumps of the kangaroo" also that "[it] cannot pass muster under the most basic and fundamental description of due process" as well as that it...violates what has been presented in

(G) IN THE MATTER OF THE DETENTION OF MR FERDZ ABBASI AT US GUANTANAMO BASE, CUBA" (page 5 of the Written Submission): I contest that

I am properly classified as an "enemy combatant."



(H) UNCLASSIFIED "FACTUAL" BASIS FOR CLASSIFICATION AS AN "ENEMY COMBATANT" AND DEFENCE RESPONSE:

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Really US, you must try harder. You can't oppress and persecute with kid gloves. Get stuck in! Get down and dirty! I was expressing some meekly supposed "facts" to sink my teeth into and bear apart - Allah Willing. Yet, what is presented to me is an "unclassified 'coffee break' basis" for my being classified as an "enemy combatant." A fourteen year old could have generated better lies to classify me as "enemy combatant."

3. Supposedly there is, "information possessed by the U.S." that I am a "member of Al-Qaidah."

I am presuming that this, "information possessed by the U.S." is the "Government Information", defined in, "Combatant Status Review Tribunal Process; E. Combatant Status Review Tribunal Authority"; (3) Request the production of such reasonably available information in the possession of the U.S. Government bearing on the issue of whether the detainee meets the criteria to be designated as an enemy combatant, including information generated in connection with the initial determination to hold the detainee as an enemy combatant and in any subsequent reviews of that determination, as well as any records, determinations, or reports generated in connection with such proceedings (cumulatively called hereinafter the "Government Information").

(a) For any relevant information not provided in response to a Tribunal's request the agency holding the information shall provide either an acceptable substitute for the information requested or a certification to the Tribunal that none of the withheld information would support a determination that the detainee is not an enemy combatant. Acceptable substitutes may include an unclassified or, if not possible, a lesser classified summary of the information; or a statement as to the relevant facts the information would tend to prove."

And it is also alleged that I engaged in hostilities against U.S. or coalition partners.

(4) "Detainee is a member of Al Qaida"

As I have stated before what constitutes "Al Qaida" and "a member of Al Qaida" has really to be defined and made clear to all and sundry. I have previous interpretations as, "anybody who trained in the training camps", "anybody who met Osama bin Laden", "anybody non-Afghan

THIS IS THE FIRST
AND HEREAFTER OF
THE EXISTENCE OF
ANY SUCH "GOVERNMENT
INFORMATION..."

?

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who fought against the U.S." So how am I going to contest such an allegation without knowing the basis for it? The U.S. really has to grow-up and give-up childish name-calling. A real man is unmoved by mere words. Present me with evidence for your allegations. Otherwise you can call me what you like; you are as responsible for your deeds before Allah as I am.

(I) CONCLUSION:

Do not be fooled into thinking that I am in anyway perturbed by you classifying me as a (non-sensical) "enemy combatant". In fact quite to the contrary I am humbled that Allah would honour me so. Do you really think I would like to be considered a friend to a nation that massacred whole Native American tribes? That killed, raped, enslaved, and oppressed the blacks of Africa?

I must have been around fourteen years old when I opened my textbook to a black-and-white picture of an American. All I remember of the American was that he was white. Big grin on his face. Checked short-sleeved shirt (I believe) and him kneeling down on one knee. His elbow rested on one of the very atom bombs that obliterated millions. INNOCENT CIVILIAN MILLIONS. Yet he could have been kneeling beside his five year old son. You would have not known the difference. Terrorist America; you had named them had you not Big Boy and Big Tom? Believe you me it absolutely burns my heart to see innocents die. Pure hate wells up in my veins to think that the U.S. could get away with such a thing. My eyes light up aflame and I yearn for justice, sweet justice, against the tyrant that hurts INNOCENT CIVILIANS.

Yet Americans have no shame whatsoever for it. They are quite proud. How many times can Terrorist America blow up the world now? I last counted seven?

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Do you think I want to be a friend to the same nation that sanctioned

Iraq, so heavily that great numbers of babies died as a result? And yet I have spoken to an American soldier who said, "They deserved it, they should have overthrown Saddam." This, from the very "defenders of freedom."

Do you think I want to be on good relations with an army that is occupying our very Sacred Centre - the Arabian Peninsula? Do you think I want to be a friend to an army, tent, as another soldier of the American army put it, "I'll admit it, us soldiers do like to go to other peoples' countries and fuck their women."

Do you think I want to be a friend to a nation that supports Israeli terrorism against Palestinians? Sticks and stones against tanks and military helicopters?

What do you think happened to the smugly American in the atom bomb photo? Why don't you go and find out? Maybe you should look in the cemetery. He met with death just like all have done and will do (except Allah the Everliving). Not one of the oppressors before us escaped punishment for their sins. Terrorist America: do you think you will? Every generation is born, lives, grows old, dies, and is brought to book for its deeds. Will you escape?

"How many were the populations. We utterly destroyed because of their iniquities, setting up in their places other peoples?"

"Yet, when they felt Our Punishment (coming), behold, they (tried to) flee from it."

"Flee not, but return to the good things of this life which were given you, and to your homes, in order that ye may be called to account."

They said: "Ah! were to us! We were indeed wrongdoers!"

"And that any of theirs ceased not, till We made them as a field that is mown, as ashes silent and quenched."

« Chapter 2: Al Ambiyā; verses 11-15 »

THIS IS AN EXAMPLE
OF THE SOLDIER'S
USE OF VIOLENCE.

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I want to make that very clear! I came here to tell the truth - and if the truth condemns America, then she stands condemned! ~~7/12~~
((El-Hujj Malik El-Shalabi a.k.a. Malcolm X))

Page 1 of

In the name of Allah, Most Gracious, Most Merciful.

LEGAL DEFENCE OPERATION:

الشَّمْسُ بَارِزَةٌ
("The Sun Rising in Splendour")

THE DEFENCE'S ANSWERS TO ALLEGATIONS

(I) PROLOGUE:

It is only yesterday Tuesday 5th October 2004CE (الثلاثاء ٥ أكتوبر ٢٠٠٤م) at around 1:30pm that I met for the second time my Personal Representative for the Combatant Status Review Tribunal here at Camp Echo Guantánamo Bay Naval Station Guantánamo Bay Cuba.

He showed me the photocopy of my "autobiography" which I wrote around May - June 2003 because I felt that the interrogators had consistently corrupted, twisted and blatantly lied about what I had told them of my "story" and to remedy that I desired to have something in my interrogation case file to speak on my behalf. Contrast and even expose the lies propagated by gung-hound interrogators.

I had requested my Personal Representative for the C.S.R.T. (Combatant Status Review Tribunal(s)) to search and find it with Central Intelligence Task Force (C.I.T.F.) in order to submit it as documentary evidence in the C.S.R.T.

On presenting it to be (the photocopy of it) he acknowledged it has been officially authorised to be submitted as documentary evidence in the C.S.R.T. on my behalf and my behalf.

Therefore with that consideration in mind I am writing my response to the allegations in the unclassified "factual" basis of my designation as an enemy combatant presented to me by my Personal Representative on Sunday 26th September

- - - Exh. D-F 659

2004 CE 882 (K. 25 11). In this way I can keep my answers to the allegations specific and upon one track without trying to divide greatly to explain background, environment, surrounding, and other, information which is the office of and suitable purpose of the autobiography now submitted as documentary evidence.

Therefore this document represents back to the autobiography and may elucidate some parts of an autobiography which may have been left unclear or less exact of the fact that, however, every is multifaceted like a diamond and therefore reflects different aspects of the same scene from different perspectives. The general nature of the autobiography may have not covered such aspects as these allegations entail.

(II) INTRODUCTION:

It is very clear from any reading of my autobiography and these allegations that the Record either was negligent that he/she somehow "missed" my autobiography, skillfully obliterated and simply ignored it, or was unaware it actually existed.

It shall be noted in the "Defense Call to Essential Witnesses and Documentation" the document I have submitted as evidence on my behalf to the C.S.R.T. I call a number of previous investigators as witnesses. The first of which interrogated me around Christmas 2001; [redacted] and "Chris". It seems on the simple premise that wanting first interrogated on my thoughts and told the Marines that escorted me to base that, "It will only take five minutes." Yet because I had the audacity to speak up and tell them the whole truth of my damage to the loss of my ability at the time (as I was being fanned and mal-treated) and therefore that "five minutes" became almost three hours running over into their lunch time. May that I would more likely suspect simply [redacted] blatantly corrupted my story and wrote an erroneous report of it. I know because later at Camp

THE DEERCKE'S ANSWERS TO ALLEGATIONS

X-ray interrogator (F.B.I) [redacted] read the very first line of the report he composed as being from [redacted] and "Chris" and I noted and expressed that that very first line was inaccurate and factually incorrect. Obviously "ambulance" should have noted "ambulance" head!

I will say now before I go on that from the very first moment I was transported into American hands I have been frank, truthful, and honest about very, very serious and delicate things. Yet I have seen to learn that the interrogator had no desire to know the truth whatsoever. They were not working harder to obtain justice for the families of those who were killed, injured, or suffered any type of loss due to the terrorist attacks of September 11th 2001. They were working for themselves - glory-seeking and what they wanted to hear and what they selfish little ears heard was what was best for their image first and foremost. They "cherry-picked" (i.e. they tried to bundle the good news) what they heard out of systematic interrogation and manipulation of that information to ensure that what disseminated the information and interrogate further to iron them out.

As mentioned above my interrogators at Camp X-ray were F.B.I agents [redacted] and "Bob". They had received the erroneous report from [redacted] and "Chris" and assumed it to be true and my words to be lies. They noted down in highly computerized form what parts of what I told them which they believed made them look good in front of their bosses and they could use as leverage over me. Leverage? It seems all they were after was the media fame they have consistently tried to get me to be a "cooperative witness" for them. I know because they had expressed so much to me.

It shall be noted that the M.I. (Ministry of Defense) came 5 or 6 times and interrogated me within the period of my stay at Camp X-ray. I was completely open with them and told them my full story within the limited time of the interrogations. To the effect that I was threatened by a soldier called [redacted] who wanted to,

One day go round and round with me." Tough talk to a man in a cage. The Mixing of intelligence with my finger prints and my story in general form. Why was I so open? Because frankly I didn't believe I did anything wrong nor do I now and wanted someone to try to prove that I did. With impatience I told them the truth to the best of my ability and gave an obstinate look that read "And what!?!". I believed and believe I by the Grace of Allah was in the right and they in the wrong and was ready to prove it Allah Willing. And this is also why I have submitted my autobiography as evidence because rather than hide I've by the Grace of Allah opted to face up to the justice system. If I truly believe I did nothing wrong why should I hide and lie as though I were some animal?

After being disrespected by the interrogators I devised a plan to get them off my case (as I was being interrogated ~~continually~~ in the month of February 2002) I told them the price of my cooperation was (i) a green card (ii) \$100,000 (supposedly the price paid out for me to be Affair) and (iii) immunity from prosecution; they promptly did as I wanted to all praise is due to Allah they dropped me like a hot potato. March 2002 came and went without any interrogations and March 28th (Sunday) we were transferred to Camp Delta.

In Camp Delta I had already decided my next plan of action. Everytime they interrogated me I began by, "I have nothing to say about my case except with a legal representative present." Of course I was denied legal representation and the interrogation went on but I did not talk about my case.

An example of how the interrogators corrupted the truth into what they wanted to hear is that of I believe, the Halabian-patriotic Mr. Moazzam Begg. I had mentioned to _____ that one of my trainers nicknamed Abu Hudhafa among other traits was a few inches shorter than I and had furnished him with a narrative and illustrated the print. I often did this because I was not under the stupid presumption that they were simply going to take my word for it. I gave them plenty of

THE DEFENCE'S ANSWERS TO THE ALLEGATIONS

minor details so that they may be able to corroborate them and so see that to some extent (from their perspective) I was telling them the truth. But how they managed to mitigate violence upon their own and others' families of men by sizing Mr. Beggs (I believe) as my brain I do not know! I believe Mr. Beggs is not, "a few inches", but possibly feet shorter than I (I'm approximately 6'2")! How Mr. Beggs (I believe) managed to shorten himself and damage his health for a number of years, in particular concerned with great difficulty in breathing after training us at 6'0" (approx.) and a piece of physical fitness so is beyond me! I really thought people were joking when I heard them say, "American Intelligence is a contradiction in terms." The interrogators cherry-picked again. They didn't just bend the information to fit their glory-seeking; they dropped it into shape thereby causing an innocent man to suffer per. allegations that are not true and he advised the trust the American public has put in them to catch someone perpetrated. September 2002 and to prevent any such terrorism happening again Allah willing.

Not only that but I remember _____ telling me in Camp X-ray how they have "got" my brain "Ala Huthnifah" yet they did not show me a picture of this person "Ala Huthnifah" until around August 2002 when C.I.T.F. Sergeant revealed it and all I saw was an unfamiliar face looking up at me. All this time they hugged it to their breasts as though somehow that would cause it to land into truth.

I have since then felt guilty for telling them the truth and for my mis-recognition of persons from photos shown to me. It was the first time I have ever had to recognize people in such a way unknown to myself at the time, my memory functions proving in that aspect. Yet when I realized my mistake I made efforts to correct the error but true to form the interrogators considered what they wanted to hear (to feed their glory-obsessive ways) as the truth and a man was lying if he told them otherwise. I only tried to help them and tell them the truth in this manner because as I had said to them, "I did not want blood on my hands," meaning I did not want to inadvertently help Al Qaidah (at the time, I had also assumed they had perpetrated

September 1964) by not cooperating with the interrogators when I had wrongly assumed
was what they were doing. Anyways they promptly corrected my philosophical statement
as an admission of guilt - possibly murder (their eyes suggested) - yet they were
devoid of evidence of me, but that really didn't matter, this is Cuba.

Like children they aided the Candy Cane and graced themselves on chocolate
Muslims seemingly with impunity. They did not realize the obvious (as usual)
that their Commander-in-Chief's and President's power would and troops would
were and they would be brought to account for every bite, lick and slurp.
The shopkeepers say it is the done and about to turn (Allah willing) and they
are left frozen on the shop floor, brown, ruffled and chocolate handed
and incapacitated by a surge bout of indignation - Allah willing.

Believe you me, I came to the same conclusion that some of these interrogators were
the dogs of the real F.B.I. or America, had really stupid controls. And upon
that conclusion I remained repeating legal representation and not talking about
my case became complete silence in the face of further abuse by interrogators until
on the name of a called "immunization injection" which partially sent me crazy
and mutilated my testicles to this day. I literally broke down and began talking
to the interrogators again to the base Central Intelligence. The First Sergeant
[redacted] and F.B.I. agent [redacted] (the only good F.B.I.
agent I saw and he was sent back by mistake although I wouldn't be
living to add [redacted] as a reward good F.B.I. agent too. The name May
202206 and it was then I concluded although it may be determined to be a
in fact I would write my autobiography by my own hand in order to avoid
a report of the corrupt by passive interrogators (although I suppose [redacted]
[redacted] is actually [redacted] from Kander but cannot be sure).

How that is how the autobiography came about in an environment of ignorance
and blatant disrespect and abuse from MPs and on part that I have literally

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THE DEFENCE'S ANSWERS TO THE ALLEGATIONS

word for word spell out my truth. If this is bare level of incompetence with a native English speaker what of a full-blown Arab?

(III) IMPORTANT NOTICE:

My autobiography was not written as a legal document permissible in a Court of law. I've speculated much in it, also assumed many things and conjecture freely on others. I did this as a vain attempt to stimulate the interrogators into the right mode of thinking. Whereas in a court of law I would have to rightly so confine myself to actual facts.

(IV) THE UNCLASSIFIED "FACTUAL" BASIS OF MY DETENTION & ANSWERS:

3. Information possessed by the U.S. that he is a member of Al-Qaida. Engaged in hostilities against U.S. or coalition partners.

(a) Detainee is a member of Al-Qaida."

I have never once claimed that I am a member of Al-Qaida or ever was or wanted to be.

Like I've said before the U.S. needs to make a clear and public announcement of their definition of Al-Qaidah for all and sundry so that I can know whether I fit into that definition or not. Without that clear United States' definition of what they term a member of Al-Qaidah I'll go by what I believe is the correct definition of "a member of Al-Qaidah" and that is anyone who pledged their allegiance to Osama bin Laden. I have never or ever wanted to pledge my allegiance (bayyah) to Osama bin Laden therefore I was not and am not a member of Al-Qaidah.

If the U.S. wants to define Al-Qaidah as Muslims who are wearing orange and have a beard then I will have to look at myself and say, "Well, I am wearing orange, Muslim (all praise is due to Allah), and have a beard therefore

by that definition alone and without extrapolation or extension. America deems me a member of Al-Qaidah."

"1. Travelled from Great Britain to Afghanistan, using own funds, received military training to fulfill jihad obligation."

The arabic word "jihad" in itself means "to strive" in the Islamic context it is divided into four (i) Jihad ul Nafs; to strive against the evil impulses of the self (ii) Jihad ul Shaytan; to strive and fight the insidious whispers of evil & sedition by Satan and his hosts (iii) Jihad ul Qalam; to strive with the pen and (iv) Jihad ul Saif; to strive with the sword.

Upon reading "Jihad; the shortest path to jannah (Paradise)" by Masood Azhar I was made aware that military struggle (jihad ul saif) was an individual obligation upon me (fard ul 'ayn);

"O ye who believe! what is the matter with you, that, when ye are asked to go forth in the Cause of Allah, ye cling heavily to the earth? Do ye prefer the life of this world to the Hereafter? But little is the comfort of this life, as compared with the Hereafter.

"Unless ye go forth, He will punish you with a grievous penalty, and put others in your place; but Him you would not harm in the least. For Allah hath power over all things." Chapter 9: Al Tawbah verses 38-39

It was these very verses, all praise is due to Allah, that pushed me to go. Allah coupled marching forth with "grievous penalty" if a person didn't. That made marching forth obligatory and fearing that I would burn in Hell-fire for my negligence (Allah forbid) I all praise is due to Allah; He gave me the strength and opportunity to go and endeavour to fulfil my obligation of jihad.

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As far as training is concerned the Islamic jurispudent (Fiqh) principle that, "if some-thing is necessary to fulfil an obligation that thing becomes an obligation itself" applies. In order to fight militarily a person needs to be trained militarily. Training is also supported by;

"If they had intended to come out, they would certainly have made some preparation therefor; but Allah was wiser to their being sent forth; so He made them big behinds, and they were told, 'Sit ye among those who sit (inactive)'. " « Chapter 9: Al Tawbat; verse 46 »

Jihad ul Saif (military struggle) is fought for a number of reasons of which I was taught six and can only really accurately remember four:

(i) To make Allah's Word the highest;

or
to those against whom war is made, permission is given (to fight), because they are wronged - and verily, Allah is Most Generous for their aid -

"(They are) those who have been expelled from their homes in defiance of right - (for no cause) except that they say, 'Our Lord is Allah'. Had not Allah checked one set of people by means of another there would surely have been pulled down monasteries, churches, synagogues, and mosques, in which the name of Allah is commemorated in abundant measure. Allah will certainly aid those who aid His (cause) - for verily Allah is Full of Strength, Exalted in Might (Able to enforce His Will). « Chapter 22: Al Hijj ; verses 57-60 »

(ii) To establish Allah's Law upon the land; (See "Defence Response to ~~the~~ "Factual" Basis of Designation as an Enemy Combatant" submitted as documentary evidence in C.S.R.T and;

"But no, by your Lord! They do not really believe
until they make you (O Prophet) a judge of all on
which they disagree among themselves, and can find
in their hearts no bar to an acceptance of your dec-
-ision and give themselves up to it in utter self-
-surrender." << Chapter 4: an-Nisr; verse 65 >>

(iii) To protect innocent and persecuted men, women, and children;

"Let those fight in the cause of Allah who sell the life of this
world for the Hereafter - is he who fights in the cause of
Allah - whether he is slain or gets victory - soon shall
We give him a reward of great (value).

"And why should ye not fight in the cause of Allah and
of those who, being weak, are ill-treated (and oppressed)? -
men, women, and children, whose cry is: 'Our Lord! Rescue
us from this town, whose people are oppressors; and join for
us from their own side those who will protect; and join for us from their
own side those who will help!' << Chapter 4: Al Nisr; verse 75 >>

(iv) In the hope of being martyred for the Cause of Allah;

"And say not of those who are slain in the way of Allah:
'They are dead.' Nay, they are living, though ye perceive (it)
not.

And see on document I've called as evidence; as C.S.R.T which I
had presented to interrogator C.I.T.F. [redacted] on the
subject of "Blatancy and Islam."

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(V) To purge the ranks of the Muslims of hypocrites (i.e., those who are really non-Muslims, they do not believe in Allah and the Last Day, yet pretend in outward appearance and show to be from the Muslim rank in order to gain some worldly advantage ^{and} or out of fear

(VI) To test the Believers (?)

"2. Escorted to Quetta then to guesthouse in Afghanistan where recruitments took place. Relinquished passport and money for security purposes, filled in an application form, and took a nickname. Then went on to Camp Faraj for training."

In order for the Recorder to use the word "recruitment" he/she would have to explain recruitment into what?

The appropriate word to be used in the context of the guesthouse in Afghanistan is "enrolment". People stayed at the guesthouse in order to await for a military training course whilst they signed their name down for i.e., enrolled for it much like students at a University enrol for degree courses. The person was under no obligation to and it was their free choice and initiative. Some persons used the guesthouse as, "a place to eat and sleep", whilst they checked out the Islamic - Emirates of Afghanistan.

Also the use of the word "application form" would have to be followed by application into what?

The appropriate phrase here would be, "background check" as no-one could be allowed to use the facilities willy-nilly. Among other things the person need an "advocate" of sorts, someone who could vouch for their credibility as being a good honest Muslim and not a spy or peeloader.

"3. Camp Farouq - military training - maneuver, topography, surveillance, ambushing. Weapons Kalashnikovs, PK pistol, RPG, PK machine gun"

Highly inaccurate but I'll let the autobiography sort it out. Can someone show me a "PK pistol" please because I don't think such a thing exists!

"4. Volunteered advanced courses Mountain Tactics & City Tactics. Prerequisites for front lines."

"5. Met with high-level Al-Qaida leaders. During this meeting, detainee stated that he left his home, in the United Kingdom, to take action against Americans and Jews. Additionally at this meeting, the detainee volunteered for a martyrdom mission."

A little background first; (a) I had no idea whatsoever of the meeting except when I was actually sitting in the room (b) I knew not the existence of the building in which the meeting took place before I was in the premises (c) I knew not of the office or purpose of the building prior to being brought there. (d) I knew not the identities of the persons in front of me in the meeting prior to them introducing themselves. (e) Nor to this day do I know the purpose of that meeting.

I was simply brought to the meeting room unaware. When they introduced themselves as, "Second in command of Al-Qaidah", and, "Third in command of Al-Qaidah"; I connected the word "command" with the military term "Commander" such as "Commander-in-Chief". Now did I have any reason to believe a Jihad organization like Al-Qaidah targetted civilians because I was under the impression that all mujahideen (fighters in the Cause of Allah) knew Islam forbids the killing of innocents and it went without saying.

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Obvious to anyone who has read my autobiography, "During this meeting, detainee stated that he left his home, in the United Kingdom, ..." is a mere fabrication. I actually left Britain to either join Taliban or fight for the sake of Allah in Kashmir. "United Kingdom" or any reference to "Britain" or "England" whatsoever was never made it would have been redundant as my nickname was 'Abbas al Britani' (Abbas from Britain).

"...to take action against Americans and Jews." Shows clearly the corruption of interrogators of what they heard into what they wanted to hear. The true construction should be, "... to take action against THE Americans and THE Jews." Where the definite article indicated by "the" in both cases means that the person addressing me assumed I was aware of what "Americans" and what "Jews" he was talking about. An illustrative example: if I say "apples" and "jugs" I'm speaking generally but if I say "the apples" and "the jugs" the person I'm addressing is assumed to know what specific "apples" and "jugs" I'm talking about.

So how is Commander III Abu Hafsa someone I had never met before nor knew existed until that very meeting able to address me in a definite sense by using the definite article for "Americans" and "Jews". (i) On the unspoken assumption that a jihad organisation is a military organisation that only targets armed and dangerous aggressors, therefore rendering "the Americans and the Jews" as "militarily aggressive Americans and militarily aggressive Jews". (ii) In Britain I had read two small books on the occupation of the Holy Land (the Arabian Peninsula) by American military troops. One which I believe was called "Occupation of the Holy Land" and was a translation of a sermon by ~~Umar bin al-Khattab~~ a Sheikh who was subsequently imprisoned by the Saudi Arabian government and "Declaration of War" on the same subject by Osama bin Laden (translated into English). So prior to the meeting I knew Osama bin Laden had issues with the American military occupation of the Holy Land. Also at that time Osama bin Laden had made clear his support of the Palestinian "intifada" (uprising) through the medium of

his so called "Training Video" which we had the opportunity to watch at the guesthouse unknown to me prior to the meeting. Therefore based on that information I understood "military aggressive American and Jews" to mean "American troops in Saudi Arabia and Israeli troops in Palestine".

"Additionally at this meeting, the detainee volunteered for a "martyrdom mission." A mere fabrication - read my autobiography please.

"6. Knew U.B.L. "operated" Farouq. Speech at Farouq present. Present when U.B.L. visited "Mountain Warfare Camp."

I don't believe I have ever stated categorically that I knew Osama bin Laden "operated" Camp Farouq. And if I have done it was based on conjecture or word of mouth. On word of mouth alone I've heard he ~~fringed~~ the camp(s) but I've never actually heard that he "operated" them - there is a difference.

The speech at Farouq, yes I was present at the very speech when with his own mouth and tongue he told Basic Training that he had received a fax from the Americans! My translator was abruptly cut short but I got enough to know that the fax was either a threat or an attempt at a bargain or both. I didn't really much care to hear the speech and left with my translator to snack on some cold honey in my tent.

"7. Detainee was identified as the guard posted to watch a suspected spy. This took place at the home of a Taliban official. The suspected spy recognized the detainee because the detainee beat him, because, as detainee explained, it was his personal jihad."

— INCOMPLETE —

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