

brought, that these charges will be made know to the accused and his counsel, or that a speedy trial providing adequate legal process will be afforded to determine guilt on such charges or their legal validity under domestic or international law. It permits prolonged pre-commission detention in solitary confinement, risking such long-term psychological injury as that suffered by Mr. Begg and Mr. [REDACTED]

41. The detained Petitioners are not properly subject to the Military Order.
42. However, the Military Order was promulgated in the United States and in this judicial district, the decision to detain and designate Petitioners were made by Respondents in the United States and in this judicial district, the decision to detain Petitioners at Guantánamo was made in the United States and in this judicial district, and the decision to continue detaining the Petitioners was, and is, being made by Respondents in the United States and in this judicial district.
43. In the related case of *Rasul v. Bush*, 215 F. Supp. 2d 55 (D.D.C. 2002), Respondents contended that the petitioners in that case were being detained not pursuant to the President's Military Order but rather under the President's authority as Commander in Chief and under the laws and usages of war. However, Petitioners in this matter were not arrested or detained by the United States in the course of the armed conflict.
44. Moreover, Petitioner Begg was detained by Pakistani not United States authorities and was arrested by them not in Afghanistan, but while in his home in Pakistan, nowhere near a battlefield. Accordingly, Petitioner is not properly detained under the President's authority as Commander in Chief or under the laws and usages of war.

Guantánamo Bay Naval Station

45. On or about January 11, 2002, the United States military began transporting prisoners captured in Afghanistan to Camp X-Ray, at the United States Naval Base, in Guantánamo Bay, Cuba. In April 2002, all prisoners were transferred to a more permanent prison facility in Guantánamo, Camp Delta. Offenses committed by both civilians and foreign nationals living on Guantánamo are brought before federal courts on the mainland, where respondents enjoy the full panoply of Constitutional rights. Detainees incarcerated at Guantánamo are entitled to test the legality of their detention in the federal courts. *Rasul v. Bush*, 542 U.S. ___, (June 28,

2004).

46. In or about February 6, 2003, the United States military transferred the detained Petitioner Begg to Guantánamo, where he has been held ever since, in the custody of Respondents Bush, Rumsfeld, Hood, and Cannon. In or about January 2002, the United States military transferred the detained Petitioner [REDACTED] to Guantánamo, where he has been held ever since, in the custody of Respondents Bush, Rumsfeld, Hood, and Cannon.

The Conditions of Detention at Guantánamo

47. Since gaining control of the detained Petitioners, the United States military has held them virtually *incommunicado*. On information and beliefs, they have been, or will be, interrogated repeatedly by agents of the United States Departments of Defense and Justice, though they have not been charged with an offense, nor notified of any pending or contemplated charges. They have made no appearance before either a military or civilian tribunal of any sort, and have not been provided counsel or the means to contact counsel. They have not been informed of their rights under the United States Constitution, the regulations of the United States Military, the Geneva Convention, the International Covenant on Civil and Political Rights, the American Declaration on the Rights and Duties of Man, or customary international law. Indeed, Respondents have taken the position that Petitioners should not be told of these rights. As a result, the detained Petitioners are completely unable either to protect or to vindicate their rights under domestic and international law.
48. On information and belief, the detained Petitioners have been forced to provide involuntary statements to Respondents' agents at Guantánamo. The detained Petitioners have been held under conditions that violate their international and constitutional rights to dignity and freedom from cruel, unusual and degrading treatment or punishment. They have been housed throughout their detention in accommodations that fail to satisfy either domestic or internationally accepted standards for any person subject to detention. For example, upon information and belief, they were initially forced to use a bucket for a toilet, and were not provided with basic hygienic facilities. They have been refused meaningful access to their families. They have not been provided with the opportunity fully to exercise their religious beliefs and they have been

humiliated in the exercise of their religion. They have been exposed to the indignity and humiliation of the cameras of the national and international press, brought to Guantánamo with the express consent and control of Respondents.

49. In published statements, Respondents Bush, Rumsfeld, and officers Lehnert and Carrico who preceded Hood and Cannon in their respective positions, have indicated that the United States may hold the detained Petitioners under these conditions indefinitely. *See, e.g.*, Roland Watson, *THE TIMES (LONDON)*, Jan. 18, 2002 (“Donald Rumsfeld, the U.S. Defence Secretary, suggested last night that al-Qaeda prisoners could be held indefinitely at the base. He said that the detention of some would be open-ended as the United States tried to build a case against them.”).¹
50. Indeed, according to the Department of Defense, detainees who are adjudged innocent of all charges by a military commission may nevertheless be kept in detention at Guantánamo indefinitely. *See* Department of Defense Press Background Briefing of July 3, 2003, available at <http://www.defenselink.mil/transcripts/2003/tr20030703-0323.html> (last visited on July 1, 2004).

IV CAUSES OF ACTION

FIRST CLAIM FOR RELIEF (UNLAWFUL DETENTION)

51. Petitioners incorporate paragraphs 1 - 50 by reference.
52. The detained Petitioners are not, nor have they ever been, enemy aliens, lawful or unlawful belligerents, or combatants of any kind. Petitioners are not, nor have they ever been, “enemy combatants” who were “part of or supporting forces hostile to the United States or coalition partners in Afghanistan and who were engaged in an armed conflict against the United States there.” *See Hamdi v. Rumsfeld*, 542 U.S. ___, slip op. at 8-9 (June 28, 2004). The Petitioners

¹ *See also* TIME MAG., *Welcome to Camp X-Ray*, Feb. 3, 2002:

More curious still is the matter of the prisoners' ultimate fate. Rumsfeld has laid out four options: a military trial, a trial in U.S. criminal courts, return to their home countries for prosecution, or continued detention ‘while additional intelligence is gathered.’ The last seems a distinct possibility; the Pentagon plans to build 2,000 cells at Camp X-Ray.

have committed no violation of domestic, foreign, or international law. There is no basis whatsoever in law for Petitioners' detention.

SECOND CLAIM FOR RELIEF
(DUE PROCESS - FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION)

53. Petitioners incorporate paragraphs 1 - 52 by reference.
54. By the actions described above, Respondents, acting under color of law, have violated and continue to violate the Fifth Amendment to the United States Constitution. Respondent Bush has ordered the prolonged, indefinite, and arbitrary detention of individuals, without Due Process of Law. Respondents Rumsfeld, Hood, and Cannon are likewise acting in violation of the Fifth Amendment, since they act at the President's direction. On its face, the Executive Order violates the Fifth Amendment.

THIRD CLAIM FOR RELIEF
(DUE PROCESS - FIFTH AMENDMENT
TO THE UNITED STATES CONSTITUTION)

55. Petitioners incorporate paragraphs 1 - 54 by reference.
56. By the actions described above, Respondents, acting under color of law, have violated and continue to violate the right of the detained Petitioners to be free from arbitrary, prolonged, and indefinite detention, in violation of the Due Process Clause of the Fifth Amendment to the United States Constitution. The Executive Order, as applied to Petitioners, violates the Fifth Amendment.

FOURTH CLAIM FOR RELIEF
(DUE PROCESS - INTERNATIONAL LAW)

57. Petitioners incorporate paragraphs 1 - 56 by reference.
58. By the actions described above, Respondents, acting under color of law, have violated and continue to violate customary international law, Arts. 9 and 14 of the International Covenant on Civil and Political Rights, and Arts. XXVIII, XXV, and XXVI of the American Declaration on the Rights and Duties of Man. Respondent Bush has ordered the prolonged, indefinite, and arbitrary detention of Petitioners, without legal process, in violation of binding obligations of

the United States under international law. Respondents Rumsfeld, Hood, and Cannon are likewise acting in violation of international law, since they act at the President's direction. On its face, the Executive Order violates international law.

FIFTH CLAIM FOR RELIEF
(DUE PROCESS – INTERNATIONAL LAW)

59. Petitioners incorporate paragraphs 1 - 58 by reference.
60. By the actions described above, Respondents, acting under color of law, have violated and continue to violate the right of the detained Petitioners to be free from arbitrary, prolonged, and indefinite detention, in violation of customary international law, Arts. 9 and 14 of the International Covenant on Civil and Political Rights, and Arts. XXVIII, XXV, and XXVI of the American Declaration on the Rights and Duties of Man. The Executive Order, as applied to the detained Petitioners, violates these and other binding obligations of the United States under International Law.

SIXTH CLAIM FOR RELIEF
(DUE PROCESS – FAILURE TO COMPLY
WITH U.S. MILITARY REGULATIONS AND
INTERNATIONAL HUMANITARIAN LAW)

61. Petitioners incorporate paragraphs 1 - 60 by reference.
62. By the actions described above, Respondents, acting under color of law, have violated and continue to violate the rights accorded to persons seized by the United States Military in times of armed conflict, as established by, *inter alia*, the regulations of the United States Military, Articles 4 and 5 of Geneva Convention III, Geneva Convention IV, and customary international law.

SEVENTH CLAIM FOR RELIEF
(WAR POWERS CLAUSE)

63. Petitioners incorporate paragraphs 1 - 62 by reference.
64. By the actions described above, Respondents, acting under color of law, have exceeded the constitutional authority of the Executive and have violated and continue to violate the War Powers Clause by ordering the prolonged and indefinite detention of the detained Petitioners

without Congressional authorization.

EIGHTH CLAIM FOR RELIEF
(SUSPENSION OF THE WRIT)

65. Petitioners incorporate paragraphs 1 - 64 by reference.
66. To the extent the Executive Order of November 13, 2001, disallows any challenge to the legality of the Petitioners' detention by way of habeas corpus, the Order and its enforcement constitute an unlawful Suspension of the Writ, in violation of Article I of the United States Constitution. The actions of the Respondents in claiming the legal right to detain petitioners without judicial authorization or review constitute a suspension of the writ of habeas corpus in violation of Article I of the United States Constitution.

NINTH CLAIM FOR RELIEF
(ARBITRARY AND UNLAWFUL DETENTION - VIOLATION OF THE APA)

67. Petitioners incorporate paragraphs 1 - 66 by reference.
68. By detaining Petitioners for the duration and in the manner described herein, Respondents have arbitrarily, unlawfully, and unconstitutionally detained the Petitioners, in violation of the Administrative Procedures Act, 5 U.S.C. §706(2).

TENTH CLAIM FOR RELIEF
(UNLAWFUL TRIAL BY MILITARY COMMISSION - VIOLATION OF THE FIFTH
AMENDMENT OF THE UNITED STATES CONSTITUTION)

69. Petitioners incorporate paragraphs 1 - 68 by reference.
70. Pursuant to the Executive Order of November 13, 2001, Petitioners have been designated by Respondent Bush as "enemy combatants" subject to a possible trial by military commission.
71. By the actions described above, Respondents, acting under color of law, have violated and continue to violate the Fifth Amendment to the United States Constitution. Respondent Bush has ordered that individuals designated as "enemy combatants" may be tried by military commission, without Due Process of Law. Respondents Rumsfeld is likewise acting in violation of the Fifth Amendment, since he acts at the President's direction. On its face and as

applied to Petitioners, trial by military commission pursuant to the Executive Order violates the Fifth Amendment.

TENTH CLAIM FOR RELIEF
(UNLAWFUL TRIAL BY MILITARY COMMISSION - VIOLATION OF INTERNATIONAL LAW)

72. Petitioners incorporate paragraphs 1- 71 by reference.

73. The trial by military commission for which Respondents have, by designating Petitioners, indicated that he may be eligible, violates the rights accorded to persons seized by the United States Military in times of armed conflict, as established by, *inter alia*, the United States Constitution, the regulations of the United States Military, Articles 4 and 5 of Geneva Convention III, Geneva Convention IV, and customary international law.

74. As Lord Goldsmith, the British Attorney General, said a week ago,

There will always be measures 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 by law*, where we cannot compromise on long-standing principles of justice and liberty, even if we may recognise 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 Guantánamo Bay, and the "tribunal" that has been organized to try him – described 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 description of due process.

V
PRAYER FOR RELIEF

WHEREFORE, petitioners pray for relief as follows:

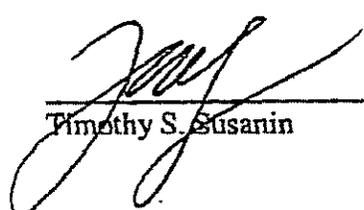
1. Grant Petitioner [REDACTED] Next Friend status, as Next Friend of Moazzam Begg;
2. Grant Petitioner [REDACTED] Next Friend status, as Next Friend of [REDACTED];
3. Order the detained Petitioners released from Respondents' unlawful custody;
4. Order Respondents immediately to allow counsel to meet and confer with the detained Petitioner, in private and unmonitored attorney-client conversations;
5. Order Respondents to cease all interrogations of the detained Petitioners, direct or indirect, while this litigation is pending;
6. Order and declare the Executive Order of November 13, 2001, unlawful as a violation of the Fifth Amendment to the United States Constitution;
7. Order and declare the Executive Order of November 13, 2001, unlawful as a violation of the Administrative Procedures Act, 5 U.S.C. § 702;
8. Order and declare the Executive Order of November 13, 2001, unlawful as a violation of customary international law, the International Covenant on Civil and Political Rights, and the American Declaration on the Rights and Duties of Man;
9. Order and declare that the Executive Order of November 13, 2001, violates the War Powers Clause;
10. Order and declare that the provision of the Executive Order that bars the detained Petitioners from seeking relief in this Court is an unlawful Suspension of the Writ, in violation of Article I of the United States Constitution;
11. Order and declare that the prolonged, indefinite, and restrictive detention of Petitioners is arbitrary and unlawful, a deprivation of liberty without due process in violation of the Fifth Amendment to the United States Constitution, and in violation of the law of nations and treaties of the United States;
12. Order and declare that the detained Petitioners are being held in violation of the Fifth Amendment to the United States Constitution;
13. Order and declare that the detained Petitioners are being held in violation of customary international law, the International Covenant on Civil and Political Rights, and the American Declaration on the Rights and Duties of Man;

14. Order and declare that the detained Petitioners are being held in violation of the regulations of the United States Military, the Geneva Conventions, and international humanitarian law;
15. Order and declare that the provisions of the Executive Order that authorize trial by military commission violate the Fifth Amendment of the United States Constitution.
16. Order and declare that the provisions of the Executive Order that authorize trial by military commission violate the various provisions of the regulations of the United States Military, the Uniform Code of Military Justice, the Geneva Conventions, and international law;
17. To the extent Respondents contest any material factual allegations in this Petition, require respondents to show the facts upon which Petitioners' detentions are based, grant Petitioners an opportunity for meaningful discovery into the case against them, and schedule an evidentiary hearing, at which Petitioners may adduce proof in support of their allegations; and
18. Grant such other legal or equitable relief as may be appropriate to protect Petitioners' rights under the United States Constitution, federal statutory law, and international law.

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

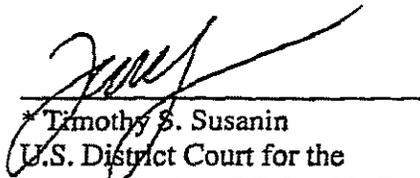
Executed on this 2nd day of July 2004.



Timothy S. Susarin

Respectfully submitted,

Counsel for Petitioners:



* Timothy S. Susanin
U.S. District Court for the
District of Columbia Bar No. 455429

Lawrence S. Lustberg
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Counsel for Petitioners

* Mr. Susanin appears as local counsel for all attorneys.

Dated: Newark, New Jersey
July 2, 2004



GUAN20041 02646

U. S. Department of Justice

Civil Division

Deputy Assistant Attorney General

Washington, D.C. 20530

August 31, 2004

Delivery by Hand

The Honorable Joyce Hens Green
Senior United States District Judge
United States Courthouse
333 Constitution Ave., NW, Room 2315
Washington, DC 20001

Re: Guantanamo Bay Detainee Cases

Dear Judge Green:

Pursuant to your request at last Friday's conference in these cases, this letter memorializes the schedule proposed by the government for the submission of factual returns containing the factual bases for the detention of petitioner-detainees. As we discussed on Friday, the submission of such factual returns will follow the assembly and finalization of an administrative record for each detainee in the on-going Combatant Status Review Tribunal ("CSRT") process being conducted by the military.^{1/} Where the CSRT process results in a conclusion that the detainee is properly held as an enemy combatant, that process will supply the complete factual record justifying that conclusion.

[Each of the petitioner-detainees has begun the CSRT process in some fashion, with some more advanced in the process than others.] In estimating a period for overall completion of the CSRT process for the petitioner-detainees in these cases, however, several caveats are in order. The process is in its early stages, and its timely completion depends not only on unforeseen contingencies and operations at Guantanamo Bay, but also could be affected by idiosyncratic aspects of the CSRT proceedings of individual detainees. With these appropriate caveats, as well as those mentioned at the conferences in these cases, the government anticipates completing CSRT

APPROVED BY
US FORCES



^{1/} Pursuant to your request, I am enclosing a copy of the July 29, 2004 Department of Defense directive implementing and describing the CSRT process.

SEP 14 2004

JTF/ JDOG S-2
GUANTANAMO BAY, CUBA

Exhibit D-d

The Honorable Joyce Hens Green
August 31, 2004
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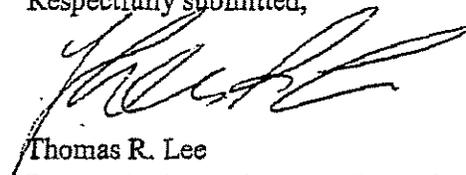
GUAN2004I 026-46

proceedings for the majority of the current habeas petitioner-detainees² by end of September and for all of the current habeas petitioner-detainees by mid-October. Accordingly, the government intends to begin submitting administrative records finalized in the CSRT process, which will indicate the factual bases for the detention of petitioner-detainees to whom the records pertain, in the next two weeks. Such records will be submitted on a rolling basis, as CSRT proceedings for petitioner-detainees are completed. We anticipate filing the last of the factual returns by the week of October 18, 2004.³

This process will advance the parties' and the Court's interest in securing the most efficient and timely resolution of these cases. It accommodates the interests of counsel for petitioner-detainees in receiving in the coming weeks a complete statement of the factual basis for a detainee's status as an enemy combatant. And it does so without multiplying proceedings in these cases by requiring a partial explanation of the basis for detention that would doubtless have to be supplemented, and without diverting resources from the CSRT process in order to provide a partial factual return, a diversion that would necessarily slow down the ultimate completion of the CSRT process.

This schedule, of course, assumes coordinated treatment of these cases. To the extent one or more of the pending cases takes a different track requiring a reordering of particular detainees within the CSRT queue or the interruption of CSRT proceedings in order to facilitate a partial explanation of the factual basis for detention, the process inevitably will be disrupted and the proposed schedule may be impacted adversely.

Respectfully submitted,



Thomas R. Lee
Deputy Assistant Attorney General

On Behalf of Respondents

² As discussed at the August 27 conference, the government has been unable to confirm that it is detaining two of the petitioners in these cases. Counsel for these petitioners have been notified and asked to investigate the matter further or supply additional information regarding the petitioners.

³ To the extent that records submitted encompass both unclassified and classified documents, the government will file unclassified portions in the case to which the record pertains. Classified portions will be prepared for filing but will not actually be filed pending the entry of an appropriate protective order governing the use and maintenance of classified materials and, further, will not be shared with opposing counsel in a case until that counsel obtains an appropriate security clearance.

The Honorable Joyce Hens Green
August 31, 2004
Page 3

Enclosure

cc: Counsel for petitioners in:

(by electronic mail)

Rasul v. Bush, No. 02-CV-0299;
[REDACTED] *v. United States*, No. 02-CV-0828;
[REDACTED] *v. Bush*, No. 02-CV-1130;
[REDACTED] *v. Bush*, No. 04-CV-1135;
[REDACTED] *v. Bush*, No. 04-CV-1136;
Begg v. Bush, No. 04-CV-1137;
[REDACTED] *v. Bush*, No. 04-CV-1142;
[REDACTED] *v. Bush*, No. 04-CV-1144;
[REDACTED] *v. Bush*, No. 04-CV-1164;
[REDACTED] *v. Bush*, No. 04-CV-1166;
[REDACTED] *Bush*, No. 04-CV-1194;
[REDACTED] *v. Bush*, 04-CV-1227;
[REDACTED] *v. Bush*, No. 04-CV-1254

SEP 1 1 2004

RESPONSE TO TRIBUNAL PROCESS

My decision to participate in The Combatant Status Review Tribunals is based on necessity; and stems from the desire to challenge my detention - both past and present - at the hands of the U.S. Military. This is by no means an acquiescence of the process, which I believe is intrinsically inequitable due to the following:-

- 1. I have been informed by U.S. officials that the tribunal is supposed to be a battlefield determination, conducted normally within weeks of initial custody. It is three years late! And this is no battlefield!
- 2. I was not captured on a battlefield nor in a combat zone, nor in any such contiguous proximity. Rather, I was abducted from my residence - where I lived with my wife and young children - in Pakistan (Islamabad), at gunpoint, by U.S. and Pakistani "agents"; held captive at an unknown location for three weeks; and handed over to the U.S. military at an airport, on 21st February 2002. Thereafter I was taken to Kandahar; and later to Bagram. (See

* letter of Gareth Peirce; Affidavits of Gareth Peirce and [redacted]

30) In a letter dated 14th August 2004, my U.K. solicitor, Gareth Peirce states "...in the circumstances is the unjust and unlawful process ongoing in Guantanamo an appropriate one to engage in. That view... is accepted by the Senior legal advisor to the British Government, the Attorney General."

Also, "the Attorney General, Lord Goldsmith, has also stated publicly that the proposed Military Tribunals do not constitute a fair procedure that the U.K. can acknowledge as adequate." (See Habeas Petition p.15)

- (ii) Another leading British jurist describes the proposed military tribunals as "... a mockery of justice..." that "... derives from the jumps of the kangaroo..." (See *ibid*)
- (iii) According to Webster's dictionary (and law schools around the world) a tribunal is a law court; ... seat of judgement. Whether, or not, there is some confusion in terminology between "commissions" and "tribunals", it is clear that neither is bound by the principles of a congruent legal system.
- (iv) The tribunals are being held under the authority of the U.S. military; and by extension, in the name of the "coalition" (See CSRT notice to detainees). The U.K. is by far the most prominent in that very coalition, yet it has requested either "receive a fair trial" or that I be "returned to the U.K." Neither of the above processes conform to that request.
4. It is claimed that the tribunal does not seek to "punish", but, an unfavourable decision will result in continued detention, reinforcing the government's position in denying legal rights. In fact, though the CSRT notice states that the tribunal is a "separate" matter to habeas petitions, the government has sought the court's deferral of judgement in all such cases (see letter US DoJ-31.8.04), and aims to directly impact the decision with findings from a "factual basis" for detention. Ergo, it will attempt to maintain the position that detainees are "enemy aliens" unentitled to legal succor. The two processes are thus inextricably fused.

(cont'd... p2)

Page 2

(RESPONSE TO TRIBUNAL PROCESS)

5. The burden of proof is placed firmly on the detainee and thus I am denied access to ~~the~~ specific details pertaining to the "factual basis" of my detention. As it is my response to such ambiguous discovery must be based on intuition and perception of "classified" or "government information".
6. The above "information" and exigent allegations use themselves taken directly from a Statement - I believe, on 13th February 2003 - that I was made to sign, in effect, by coercion, and under duress. It is self-evident that the "unclassified" basis for detention is merely a summary of that statement. (See p. 8-10)
7. Upon initial transfer to the U.S. military, and subsequent detention in Kandahar, on 25th February 2002, I was issued with a card for EPOWs (Enemy Prisoners of War), which noted my personal details, and the ID number which I am allocated to this day: [REDACTED]. Whilst I do not claim EPOW status, - nor that of "illegal" or "enemy" combatant - This is another emphatic display of the unrelenting and inscrutable process that I have experienced. (Around six weeks later, these cards, that had been issued to hundreds of detainees, - many prior to my arrival - were later confiscated by the military. (Mr. Patrick Hamilton of CRC visited at that time, and I have requested his testimony, for confirmation).
8. The CSRT notice received on 13th July 2002 clearly states that detainees will be given a statement for the factual basis for detention. [REDACTED] have been given no such thing. Merely been permitted to copy notes from the original. Whilst [REDACTED] have had opportunities to review and address these bases. It is further evident demonstration of the absurdity contained in an already unfair process.

9. Despite having requested witness statements from several people - including from my father and wife - I have been informed that "no contact could be made" had yet, my father lives in the U.K. and is in constant and regular contact with the British Foreign Office, who sent a delegate last week, bringing mail from my wife and family. He was also advised via US authorities, that I had requested statements!

SRT
EXCESS

10. Page 2, Enclosure (3) (1) states that I would be informed several days before the actual commencement of the tribunal. I have received no such prior knowledge regarding a date and was informed abruptly at 0900 hrs, today (29th October 2004), that the tribunal would be proceeding at 1100 hrs! and whether I wished to attend!

11. According to Article (5) of the Geneva Convention, and Army Regulations 190-198 and Administrative Procedures the tribunal is severely deficient in:

- (i) Requirements of Standard of Proof (ii) Preponderance of evidence (iii) detainee status determined as "enemy combatant" prior to tribunal (iv) offers no appeal to decision (v) does not offer POW status (vi) denies right to chosen counsel attendance (vii) is closed to public scrutiny (viii) is subject to change at the government's whims (ix) lacks neutral decision makers (x) does not offer reasonable access to witnesses.

12. I have reason to believe that the government may include any information in this document in 'commissions' proposed and yet am unable even to obtain copies for my own record.

TRAINING CAMPS IN AFGHANISTAN - A Background.

There has been a deliberate and erroneous effort by various sections of investigative agencies to distort the reality of "training camps" in the Muslim world - particularly but not exclusively, in Afghanistan - as collectively either under the umbrella of al-Qaeda, or closely "associated" by politico-religious objectives. This assumption is not only a gross misrepresentation of facts - whether by design, or by ignorance - but also, by definition, would absurdly seek the inclusion of tens of thousands of unrelated persons into the ranks of al-Qaeda - a relatively minuscule organisation.

The said camps were established mainly on the Pak-Afghan border during the 1980s, with the sole purpose to train resistance fighters (local, and foreign volunteers) - against occupation forces of the former Soviet Union. As it is commonly known, these camps, and their organisers, received the full blessing of the USA - and allied nations - in the form of covert training by Special Operations units; and the supply of Stinger (SAM) missiles, et al.

By 1991 the Soviets had withdrawn their forces from Afghan soil, but left in power was the pro-Soviet government of Mr. Najibullah. The camps continued, firstly in support of various Afghan factions to overthrow the government - which occurred in 1992, and after, were employed by the same factions in the internecine civil war that ensued.

Inspired by the momentous defeat of the Soviet armed forces, the camps attracted countless individuals from all over the Muslim world, that were themselves from countries or regions facing similar protracted occupation by foreign invasion or else under brutal repression by international "patriot" governments, against sections of their own people. Many of the former have

also been designated "occupied territory" status under numerous U.N. Resolutions that call for withdrawal of the aggressor.

Whether occupied, or struggling against a despot for independence, several of these camps were set up by and for peoples in close geographical proximity to Afghanistan, hence you have:

Kashmiris (and their numerous groups) against Indian occupation;
Chechens (or Icherians) against Russian occupation; Iraqi Kurds against Saddam's Iraqi forces; Turkestani Uighurs against Chinese repression. Fighters also came from the Balkans - Bosnia & Herzegovina, and Kosovo to fight Serbian occupation.

The USA itself has been the foremost in criticizing and waging war against two of these regimes. To suggest then, that these camps have the motivation, aim and objective - as well as resources - to prepare against the USA in a terrorist-type war is the height of unintelligence - by the "intelligence" community that inadvertently diminishes and belittles the misery and desperation that has prompted a plethora of attendance to the camps in the first place. Implicating these camps; and all that attend, support and operate - or even play a peripheral role in that support - is akin to holding all the ^{U.S.} militia's (members, instructors, financiers, attendees - and leaflet distributors) to account for involvement with the Oklahoma bomber, Timothy McVeigh, because of the Michigan Militia that he trained with!

I don't know when al-Qaida formed as an organization, but I had never heard of UBH or it ~~until~~ ^{until} after the U.S. Embassy bombings in Africa, ⁽¹⁹⁹⁸⁾ for which they were accused. From what I know, UBH was in Sudan until 1997, or so, then left for Afghanistan, where he set up base to the Taliban capital, Kandahar. His group required allegiance, physical presence and commitment and had the most lengthy training camps in Afghanistan. Separate from all others.