



DEPARTMENT OF DEFENSE
OFFICE OF THE CHIEF DEFENSE COUNSEL
1620 DEFENSE PENTAGON
WASHINGTON, DC 20301-1600

20 May 2013

The Honorable Charles Hagel
Secretary of Defense
Office of the Secretary of Defense
1000 Defense Pentagon
Washington, D.C. 20301

Subject: Requests to Improve the Conditions of Confinement in Guantánamo

Dear Secretary Hagel:

We are uniformed officers and civilian counsel representing prisoners in U.S. custody at U.S. Naval Station Guantánamo Bay. We have been appointed by statute to assist some of these men before the U.S. military commissions, and accordingly, have a duty to ensure the U.S. Government discharges its obligations faithfully under controlling authorities, such as the Geneva Convention and the U.S. Constitution. Although we represent so-called "high value detainees," many of our concerns relate to the treatment of all prisoners, to include the men whose internment appears to be indefinite.

You are no doubt aware of the sheer state of desperation of the majority of men interned there, who the *New York Times* editorial board has just recognized are political prisoners caught in the middle of a stalemate between Congress and the President.¹ While the hunger strike continues to increase in scope and severity, there is much you can do, right now, to improve the quality of life for all the prisoners. We are writing to offer our assistance, and recommendations on how you may improve their quality of life before it is too late – before many of the "wrong place, wrong time" detainees achieve freedom, not through the rule of law, but through death by starvation.

We are writing you directly because our prior letters to the Department of Defense have been ignored, similar to the prisoners' pleas. Positively, we note that under your leadership, there appears to be an increased concern about the welfare and situation of the prisoners. Specifically, we think it is a step in the right direction that you directed William Lietzau, Deputy Assistant Secretary of Defense for Rule of Law and Detainee Policy, to respond to concerns addressed by habeas counsel for dozens of detainees.² This is an

¹ NY Times, Editorial Board, "The Guantanamo Stain," 25 April 2013, (http://www.nytimes.com/2013/04/26/opinion/the-guantanamo-stain.html?_r=0)

² The Center for Constitutional Rights (CCR) and associated habeas counsel sent you a letter on 14 March 2013 to alert you to the pressing humanitarian problems at JTF-GTMO affecting the 166 detainees. Specifically, the letter detailed how the deteriorating conditions of confinement, deleterious change in command philosophy, and the prospects for indefinite detention have sparked the current hunger strike – which as of today, officially includes more than 100 detainees and rising. It is apparent that you directed William Lietzau, Deputy Assistant Secretary of Defense for Rule of Law and Detainee Policy, to respond to the 14 March 2013 letter from CCR. Mr. Lietzau responded by letter on 1 April 2013 to CCR. While we regret that Mr. Lietzau's response did not fully address the concerns of CCR, we note that under your leadership, at least CCR received a response – a courtesy that has not been extended to uniformed counsel since March 2009.

Subject: Requests to Improve the Conditions of Confinement in Guantánamo

improvement as prior letters (totaling 12) from uniformed defense counsel to the Department of Defense have been ignored repeatedly since March 2009. (See Enclosure 1, Ltr from Counsel to Mr. Lietzau, Denial of Minimum Guarantees of Common Article 3 at Camp 7, dtd. 24 Feb 2012).

As with prior submissions to Mr. Lietzau that have been unanswered, we are writing you to request that you direct critical attention to our pressing concerns.

I. Request # 1: Request for Constructive Engagement

We respectfully request that you take immediate measures to consider and respond to our concerns. As noted above, on 24 February 2012, uniformed defense counsel and appointed civilian counsel wrote to Mr. Lietzau on behalf of prisoners interned at Camp 7 to request that he undertake an appropriate investigation of reportable incidents of violations of the law of war, fulfill the recommendations outlined in the 2009 Review of Department Compliance with the President's Executive Order on Detainee Conditions of Confinement (aka Walsh Report), and correct any violations to ensure humane treatment consistent with Common Article 3 of the Geneva Conventions. (See Enclosure 1).

To date, Mr. Lietzau has not responded to this letter of 24 February 2012 or any of the previous twelve (12) letters submitted to him since March 2009. The concerns raised on 24 February 2012 have not abated, but have become elevated based on a serious change in command philosophy – one that pursues punitive detention as opposed to preventive detention contrary to established customs governing the laws of war.

Regarding the current hunger strike for instance, JTF-GTMO responded by “disciplining” internees by placing the majority of them in solitary confinement following a raid with force at Camp 6 on 13 April 2013. The raid came shortly after a delegation from the International Committee of the Red Cross completed a three-week visit to examine the prisoners and study the circumstances of a hunger strike that had been embroiling the camp for weeks.³ As you are aware, the ICRC flew out on Friday and the raid took place on Saturday. Since then, according to JTF-GTMO figures, the number of hunger strikers has increased by more than 100%, from 43 to 102, the number of strikers being forced fed increased from 13 to 30, and the number of hospitalized hunger strikers increased from 0 to 1.⁴

Death – whether by suicide, starvation, organ failure, or associated complications – is imminent. We request therefore, an immediate response from Mr. Lietzau to our 24 February 2012 letter, and a description of any actions that were taken by the Department of Defense to examine the matters raised therein, such as whether a law of war investigation was initiated consistent with U.S. law and policy.

³ NY Times, “Mounting Tensions Escalate Into Violence During Raid at Guantanamo Prison,” 13 April 2013. See http://www.nytimes.com/2013/04/14/us/violence-at-guantanamo-as-guards-try-to-move-inmates.html?_r=0 (Last accessed 27 April 2013.)

⁴ See http://www.miamiherald.com/static/media/projects/gitmo_chart/ (Last accessed 20 May 2013).

II. Request # 2: Examine the Fitness of COL John Bogdan for Command



There has been a serious degradation in the quality of life for detainees in Guantánamo Bay over the past year. This change appears to have coincided with the arrival of the new Joint Detention Group Commander, COL John V. Bogdan.

An independent investigation by the Center for Policy and Research at Seton Hall has determined that COL Bogdan may have perjured himself under oath before the military commissions in *U.S. v. Mohammad*. This independent report, entitled “Spying on Attorneys at GTMO: Guantánamo Bay Military Commissions and the Destruction of the Attorney-Client Relationship,” focuses on the recently uncovered evidence of governmental misconduct involving the unlawful and surreptitious monitoring and recording of privileged attorney client communications at the Guantánamo Bay Prison.⁵ Notwithstanding the crippling impact the spying revelation has on the effective assistance of counsel and the right to a fair trial (grounds alone which would justify appellate reversal of any military-commissions conviction), this independent report outlines the inconsistencies and contradictions in the many versions of JTF-GTMO commanders’ and staff officer’s testimony and statements regarding the purpose and capability of the listening devices that were disguised as “smoke detectors” in the attorney-client meeting rooms in Echo II (See photo above):

Even after multiple layers of deception were peeled away, the government provided a series of inconsistent explanations about the extent to which eavesdropping between attorneys and their clients has been taking place in Camp Echo:

- No audio monitoring equipment existed.
- The audio-monitoring equipment existed.
- The audio-monitoring equipment existed, but an oral instruction prohibited personnel from using it.
- The audio-monitoring equipment in place was never used.
- The audio-monitoring equipment was only used for limited purposes.
- The audio-monitoring equipment was rendered inoperable.
- The audio-monitoring equipment was discovered to be broken.
- The audio-monitoring equipment was repaired.

⁵ See http://law.shu.edu/ProgramsCenters/PublicIntGovServ/policyresearch/upload/Spying_on_Attorneys_at_GTMO.pdf (hereinafter Seton Hall).

Subject: Requests to Improve the Conditions of Confinement in Guantánamo

- The audio-monitoring equipment was upgraded.
- The person responsible for authorizing the repair and upgrade of the audio monitoring equipment [COL Bogdan] was unaware that the equipment existed.
- The audio-monitoring equipment did, in fact, exist and function but the power supplies were removed once the defense attorneys discovered it.

(Seton Hall, pg. ii-iii).

According to the independent investigation, “[t]he JTF-GTMO command staff’s contradictory statements under oath about Echo II’s audio-monitoring capabilities raise the question of what the truth of Echo II’s history is.” (Seton Hall, p. 9). Regarding COL Bogdan’s suspect testimony under oath, the report highlights his problematic testimony:

Around the first week of December 2012, Echo II cameras were upgraded “from an analog to a digital capacity.” The upgrade was at J2’s request and under Colonel Bogdan’s knowledge and authorization. The upgrade was necessitated in part by a refurbishment project on all huts in Echo II, undertaken in October and November 2012, during which time several wires in the audio surveillance system were cut inadvertently.

When the officer in charge of Echo II learned that the surveillance system had been damaged, he requested for the audio wires to be repaired, but Colonel Bogdan maintains that he first learned that there even was an audio surveillance system in Echo II in late January 2013. *Thus, Colonel Bogdan authorized the repair of a state-of-the-art audio component of a campwide surveillance system: a component that he claims he did not know existed and was not even used.* But someone or some group not only knew that the audio surveillance equipment existed, they must have tried to use it in order to learn that it did not work. As of early February 2013, the audio surveillance capability was functional in huts 5 through 8, but not in huts 1 through 4.

(Seton Hall, pg. 18) (Emphasis added).

It is undisputable that once the audio capability had been restored to 8 of the 16 attorney client meeting rooms, JTF-GTMO only permitted meetings to occur in those huts that were wired for sound, unbeknownst to the attorneys and prisoners. In response to the evidence presented, the military judge ordered JTF-GTMO to immediately dismantle the listening devices, which had enabled the monitoring of attorney-client meetings at Guantánamo Bay.

This is prospective relief, and we hope to have the full cooperation of the Department of Defense and related agencies as we continue to investigate the full extent of the prior monitoring for later resolution by a competent authority. Nonetheless, we raise the issue COL Bogdan’s fitness for command to your consideration now. While Seton Hall’s finding are sufficient grounds to examine COL Bogdan’s fitness to command the Joint Detention Group, his leadership should warrant further scrutiny based on the rapidly deteriorating detention conditions under his command and his heavy-handed response to the current hunger strike.

Subject: Requests to Improve the Conditions of Confinement in Guantánamo

III. Request # 3: Cease the Daily Searches of Legal Bins and Excessive Bodily Searches of Detainees at Camp 7

Current practices at Camp 7 with respect to so called high value detainees are interfering with critical and essential defense functions. JTF-GTMO's recently arrived guard force has adopted procedures that can only be construed to purposely and systematically harass prisoners. These procedures include daily cell shakedowns and tossing's of prisoner's cells. Prisoners are subjected to degrading bodily searches even when no rational basis exists for such procedures. In one instance, a prisoner who had not left his cell for weeks due to a debilitating health condition, was nevertheless forced to exit his cell every day so that the guard force could toss his cell and search his person.

Recently discovered evidence that will be submitted to the Commission under seal also reveals the systematic seizure of attorney-client privileged materials by personnel at the high value detention facility. These materials include attorney client notes written for the client's benefit as well as confidential letters delineating trial and motion strategy. The Staff Judge Advocate in charge of high value detainees has disavowed any knowledge of the purpose for the seizure or the persons directing these seizures.

We are requesting that you order an immediate investigation into the identity of the persons responsible for ordering these seizures of attorney-client privileged materials as well as the purpose for the seizures.

This systematic pattern of harassment, degradation, and unauthorized seizures of attorney client privileged materials has degraded the trust and respect necessary to establish and maintain an effective attorney client relationship. These unprecedented violations destroy the prisoner's confidence in the confidentiality and sanctity of defense work product and discourage them from leaving their cells to attend meetings with their attorneys since their cells are tossed whenever they do so. While "routine" searches within the Federal Bureau of Prisons systems are permitted, "daily" searches of this nature do not occur.

As you may be aware, the next Commission's session is not scheduled until 17 June 2013 due to the recent delay occasioned by the disappearance of large segments of defense work product on network servers and the controversy surrounding the dissemination of over 500,000 e-mails to the prosecution, including attorney privileged communications.

We therefore request that you immediately engage JTF-GTMO on this matter and ensure that their actions do not continue to impact the defense function before the next session of the military commissions.

IV. Request # 4: Screen all Present and Future GTMO JTF, JDG, and Camp Commanders for Bias, Prejudice, and Proper Temperament

The points raised above highlight the necessity for the Department of Defense to examine the fitness of future commanders and screen for bias and prejudice. This evaluation of temperament is necessary to determine whether the commander is able realistically treat the prisoners humanely and set aside any bias or prejudice.

Subject: Requests to Improve the Conditions of Confinement in Guantánamo

Recent command actions that defy justification, such as placing hunger-striking prisoners in solitary confinement, camp-wide temperature modifications, and guard disruptions during attempted prayers, find their roots in prejudice. The first-hand account of an Afghan villager-prisoner, detainee Obaidullah (ISN 762), concerning the degradation in treatment standards has been published and cleared for release.⁶ Within hours, Obaidullah's account has now circulated in many languages around the globe and brought additional scrutiny to the deteriorating quality of life for the prisoners. The World Medical Association rejects the force-feeding of an otherwise competent adult. This is in large part due to the reality that the procedures are painful and dehumanizing. The Guantánamo experience, the dehumanization of the body, mind, and soul, deserves critical attention.

There needs to be active engagement, encouragement, and leadership to treat the Guantánamo prisoners humanely. Recent trends in leadership fail in this duty. Just as the events leading to the massacre at My Lai derived from the dehumanization of the Vietnamese, there should be no question that the root of war crimes and mistreatment of prisoners likewise requires one human being to dehumanize another:

"We're supposed to learn from the mistakes of history, but we keep making the same mistakes," said Lawrence Colburn, whose helicopter landed in My Lai in the midst of the massacre. "That's what makes My Lai more important today than ever before."

Colburn and Hugh Thompson, who w[ere] piloting their helicopter, landed between the soldiers and terrified villagers and are credited with stopping the slaughter by talking to their fellow troops. Mike Boehm, another veteran in My Lai . . . said the slaughter reminded him of the 2005 scandal that emerged from the Abu Ghraib prison in Iraq, where US guards abused and sexually humiliated Muslim prisoners and photographed their actions.

"If you follow the war in Iraq," Boehm said, "you can see nothing has changed. At both My Lai and Abu Ghraib, there was a dehumanization of our enemy and a dehumanization of our own soldiers."⁷

Guantánamo Bay commanders must draw inspiration from Lawrence Colburn and Hugh Thompson who had the courage not only to defy unlawful orders and stop further atrocities against civilians; but also to see the "enemy" as human, even in war. Instead, there has been a consistent command climate in Guantánamo to dehumanize the prisoners – the majority of whom are cleared for release and the rest who must be considered to be innocent until proven guilty by a competent court.

Obaidullah's gut-wrenching account speaks to this dehumanization. The command response to the current political protest, putting detainees in solitary confinement and stripping away their dignity, is nothing less than dehumanizing.

Rear Admiral David B. Woods, former JTF-Commander, publicly expressed that he lost two comrades in the 9/11 attacks, and that he defined himself as part of the 9/11

⁶ See <http://www.lawfareblog.com/2013/05/obaydullah-on-the-hunger-strike/>.

⁷ See <http://www.taipeitimes.com/News/world/archives/2008/03/16/2003405776>.

generation.⁸ The legality of Admiral Wood's unprecedented orders to search and seize confidential attorney-client legal materials in October 2011 remains the subject of active litigation and will continue to ripple throughout the subsequent litigation and appellate process. Such statements by a commander should have raised a warning flag for the potential for the dehumanization of the prisoners. While we were encouraged by Rear Admiral Woods's early transfer, which resulted in the shortest tenure in command of any JTF commander, the situation has not improved.

The risk of abuse of authority and the resulting dehumanization is so high, that the fitness and temperament of future commanders, JTF, JDG, and camp commanders, should be evaluated at the highest levels. Commanders who have served in Iraq and Afghanistan, who themselves may have lost comrades, who were in combat, who experienced personal losses or sacrifices to their personal lives due to deployments, or who do not understand that the prisoners are innocent until proven guilty, should all be disqualified from consideration.

V. Request # 5: Adopt the Recommendations in the 2009 DoD Study (Walsh Report)

Detention practices currently in place in Guantánamo Bay violate Common Article 3 of the Geneva Conventions. Although the Department of Defense concluded in 2009 that the conditions of confinement at Camp 7 satisfy Common Article 3, the current treatment standards belie this now stale finding made four years ago.⁹ In the first instance, we note that the methodology of the DoD Study was flawed from the start. The report was merely an internal, executive level assessment that lacked any peer review. It failed to solicit scrutiny or input directly from the detainees themselves, lawyers for detainees, and representatives of the International Committee of the Red Cross (ICRC), the U.N., the "Sending" states, and civil-society stakeholders.

Even though the report was methodologically flawed, Admiral Walsh, the director of the DoD Study, a high-ranking officer with no substantive experience and education on applying the laws of war and detention standards, did note his strenuous concerns about whether the confinement conditions at Camp 7 were humane:

The concept of humane treatment requires the examiner to look at various factors in a continuum to assess whether what is humane today, is or will be humane over a longer period of detention. Treatment must be viewed in the context of specific and relevant circumstances to determine whether it is adequate.¹⁰

In furtherance of Common Article 3 guarantees, and to attempt to bring current practices into full compliance with law of war detention standards, the full adoption of Admiral Walsh's recommendations are, at a minimum, necessary as a matter of law.

⁸ See <http://www.miamiherald.com/2011/09/15/2409206/new-camps-chief-prepares-base.html>.

⁹ For the Department of Defense's 2009 determination, see http://www.defense.gov/pubs/pdfs/REVIEW_OF_DEPARTMENT_COMPLIANCE_WITH_PRESIDENTS_EXECUTIVE_ORDER_ON_DETAINEE_CONDITIONS_OF_CONFINEMENTa.pdf. (hereinafter "DoD Study").

¹⁰ *Id.* at pg. 72.

Subject: Requests to Improve the Conditions of Confinement in Guantánamo

Specifically, we ask that you immediately implement Admiral Walsh's 2009 recommendations relative to Camp 7:

- a. Religious Practice: "Strongly recommend:
 - Give detainees in Camp 7 opportunities for group prayer with three or more detainees, similar to practices in other camps.
 - Continue to allow free exercise of religion to the maximum extent possible, within current security restrictions." DoD Study, fn. 2, pg. 26.
- b. Recreation: "Strongly Recommend: Expand recreation options in Camp 7, including allowing for greater communal recreation opportunities among detainees (e.g., three or more detainees in recreation together, different recreation partners, etc.)." *Id.* at 28.
- c. Intellectual Stimulation: "Recommend: Expand program content for intellectual stimulation, and provide for wider detainee access, subject to legitimate security concerns." *Id.* at 35.
- d. Mail: "Recommend: Provide more properly trained staff and qualified translators to the Detainee Mail Processing Center (DMPC) for reviewing and redacting detainee mail, to further expedite its delivery." *Id.* at 37.
- e. Protection from Solitary Confinement:

"Strongly recommend:

 - Increase detainee-to-detainee contact in Camp 7, including the ability for detainees to communicate with each other from within their cells."

Recommend:

 - Maximize interaction between detainees, communal living and recreation interaction, subject to security concerns.
 - Regularly conduct vetting, and ensure that qualified detainees are moved to communal living conditions subject to reasonable security concerns." *Id.* at 46.
- f. Protection from Sensory Deprivation – Human-to-Human Contact:

"Strongly recommend:

 - Increase detainee-to-detainee contact in Camp 7, including the ability for detainees to communicate with each other from within their cells.
 - Continue to allow maximum interaction between detainees, and maximize communal living and recreation interaction within reasonable security concerns.

Recommend:

 - Seek ways to provide more frequent telephone calls.
 - Approve and implement family visits.
 - Approve and implement video teleconferencing with families." *Id.* at 48.

Subject: Requests to Improve the Conditions of Confinement in Guantánamo

Adopting Admiral Walsh's recommendations would be a positive step forward in improving the quality of life for Camp 7 detainees. To echo Admiral Walsh's words more than four years ago:

With regard to detainees held at Camp 7, who are the most limited in their human-to-human contact, the Review Team vigorously urges that additional steps be taken to increase detainee-to detainee contact, and offer them opportunities for group prayer and expanded recreation options.

Id. 72. It has simply been too long. Adopting these recommendations is critically important, and we appreciate your efforts to ensure that the U.S. observes its obligations under international humanitarian law.

VI. Request #6: Establish an Independent Monitoring Committee to Investigate the Conditions of Confinement at Guantánamo Bay, to include Camp 7

In this respect, we, as uniformed officers with education and experience advising on and applying the laws of war, do not believe that the conditions of confinement in Guantánamo Bay satisfy Common Article 3 of the Geneva Conventions. We request that a thorough, independent review of the conditions of confinement for detainees in Guantánamo Bay occur immediately.

The review should consist of a variety of stakeholders outside of DoD components, to include the Department of State, the International Committee of the Red Cross, human rights representatives from each "Sending" State, and representatives from the U.N.'s Office of the High Commissioner for Human Rights.

On 1 May 2013, the world's leading human rights monitors requested the U.S.'s support for independent monitoring at Guantánamo Bay. The Inter-American Commission on Human Rights, the United Nations Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan Méndez, and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover, all called for immediate and independent monitoring of the situation at Guantánamo Bay. The world is watching Guantánamo, and such a body would lend legitimacy and credibility to the review.

There should be no debate on the question of whether indefinite detention is lawful. A review committee could address this question for you, and make urgent recommendations on a plan to ameliorate the suffering of the many "wrong place, wrong time" detainees. With those detainees at Camp 7, an independent review committee must also assess whether the U.S. Government is violating several international humanitarian law norms:

- (1) Right to Communicate: JTF-GTMO has functionally severed the rights of Camp 7 detainees to communicate with their family. They are not permitted to contact their families by telephone or video, contrary to the entitlements of other detainees at JTF-GTMO. In lieu of an assessment by an independent committee, you have the power to change this now and direct JTF-GTMO to stop

incommunicado detention. We would also request that you permit all detainees to communicate with their lawyers by telephone. There is simply no valid reason why, when the capabilities exist for habeas lawyers, to deny commission lawyers the ability to communicate with their clients by telephone.

- (2) Right to Religious Observances: Admiral Walsh noted in the 2009 DoD Study that Camp 7 detainees are not permitted to participate in group prayer and have limited recreational opportunities at Camp 7.¹¹ Since May 2012, the military judge presiding over the military commissions, and JTF-GTMO have permitted the five men facing the death penalty in relation to the *U.S. v. Mohammad* prosecution to conduct communal prayer in the courtroom during recesses. There have been no security incidents associated with the group prayer in the courtroom. JTF-GTMO should continue this positive step forward by permitting communal prayer in Camp 7. Finally, we understand that access to other religious materials has been inexplicably restricted for Camp 7 detainees, such as the sayings and descriptions of the life of the Prophet Mohammad (i.e. Hadith and Sunnah). In lieu of an assessment by an independent committee, you have the power to change this now and direct JTF-GTMO to grant the detainees the full right to observe in their religious traditions.
- (3) Conditions Amounting to Solitary Confinement. The 2009 DoD Study addresses the severe curtailment of social, recreational, religious, and educational opportunities afforded to Camp 7 detainees.¹² Worse, these structural limitations

¹¹ *Id.* at 72-73. (“With regard to detainees held at Camp 7, who are the most limited in their human-to-human contact, the Review Team vigorously urges that additional steps be taken to increase detainee-to-detainee contact, and offer them opportunities for group prayer and expanded recreation options, consistent with Commander, USSOUTHCOM initiatives. The conditions in Camp 7 are designed with security in mind, but limit communication and physical interaction between detainees. Detainees are currently limited to recreation with a single partner. In the area of religious practice, the detainees in all other camps are able to conduct group prayer and communal recreation. Allowing a variety of different detainees in groups of three or more to participate in recreation and prayer together will be a positive step toward greater socialization.”).

¹² See e.g., *Id.* at 18 (“Camp 7 is a climate-controlled, single-cell facility currently used to house the High-Value Detainees. The cells in this facility are designed to limit communications between detainees”); *id.* at 25 (“At Camp 7, prayer is conducted individually in their cells”); *id.* at 27 (“All camps, except Camp 7, offer communal recreation – the opportunity for detainees to conduct exercise or social activities in a group of at least four – to as many as 22 detainees – simultaneously.”); *id.* at 28 (“In Camp 7, there are limited opportunities for communal recreation, as detainees are limited to a single recreation partner (the same partner each day)”); *id.* at 34 (“Note, detainees in Camp 7 are not authorized telephone calls; all other detainees are”); *id.* at 34 (“Compliant detainees (except those in Camp 7) are also afforded opportunities to participate in Literacy, Humanities, and Art programs.”); *id.* at 45 (“All detention cells, except in Camp 7, permit easy communication and interaction with other detainees in adjoining cells.”); *id.* at 45 (“Detainees in Camp 7 are housed in cells that do not permit communication with adjacent cells. Detainees in Camp 7 also do not have the same level of socialization as detainees in other camps in Guantánamo”); *id.* at 47 (“For all detainees, except those in Camp 7, telephone calls are continually offered on a rotational basis through the population, and all detainees are offered at least one call quarterly, and more frequently if logistically possible”); *id.* at 48 (“Camp 7 cells limit human-to-human contact”); *id.* at 72 (“With regard to detainees held at Camp 7, who are the most limited in their human-to-human contact, the Review Team vigorously urges that additional steps be taken to increase detainee-to-detainee contact, and offer them opportunities for group prayer and expanded recreation options, consistent

Subject: Requests to Improve the Conditions of Confinement in Guantánamo

on their activities, coupled with the existing incommunicado detention regime, approximate conditions amounting to solitary confinement. We encourage an independent review team to assess whether the current conditions of confinement at Camp 7 give rise to solitary confinement that amounts to torture, or cruel, inhuman or degrading treatment. For your reference, we have attached an interim report by the Special Rapporteur for Torture on solitary confinement. The report finds that the physical conditions and the prison regime of solitary confinement can cause severe mental and physical pain or suffering. When solitary confinement is used as a punishment, during pre-trial detention, indefinitely, or prolonged, the report finds that it can amount to cruel, inhuman or degrading treatment or torture. In lieu of an assessment by an independent committee, you have the power to change this now and direct JTF-GTMO to social, recreational, religious, and educational opportunities afforded to Camp 7 detainees.

You could change the course and the consequences of the hunger strike right now Secretary Hagel by taking ownership of these issues during the political stalemate. At stake, as you know, is not just the inalienable right to human dignity – to be treated like a human being – but America’s standing in the world.

Thank you for your consideration. We stand ready to assist in any way possible, and would welcome a meeting with you to discuss these matters further. The point of contact for this letter is CPT Jason Wright, who can be reached at [REDACTED] and by phone at [REDACTED].

Respectfully submitted,

//s//
DAVID Z. NEVIN, ESQ
Nevin, Benjamin, McKay & Bartlett, LLP
Learned Counsel

//s//
GARY D. SOWARDS, ESQ.
Defense Counsel

//s//
DEREK A. POTEET
Maj, USMC
Military Defense Counsel

//s//
JASON WRIGHT
CPT, USA
Military Defense Counsel

Counsel for Mr. Mohammad

//s//
WALTER B. RUIZ
CDR, USN
Learned Counsel

Counsel for Mr. al-Hawsawi

with Commander, USSOUTHCOM initiatives. The conditions in Camp 7 are designed with security in mind, but limit communication and physical interaction between detainees”).

Subject: Requests to Improve the Conditions of Confinement in Guantánamo

//s//

JAMES HARRINGTON, ESQ
Harrington & Mahoney
Learned Counsel

Counsel for Mr. bin al-Shibh

//s//

CHERYL BORMANN, ESQ
Learned Counsel

//s//

MICHAEL A. SCHWARTZ
Capt, USAF
Military Defense Counsel

Counsel for Mr. bin ‘Attash

//s//

JAMES CONNELL, ESQ
Learned Counsel

Counsel for Mr. al-Baluchi

//s//

RICK KAMMEN, ESQ
Learned Counsel

//s//

DAPHNE L. JACKSON
Capt, USAF
Military Defense Counsel

Counsel for Mr. al-Nashiri

//s//

SEAN GLEASON
LtCol, USMC
Military Defense Counsel

Counsel for Mr. al-Iraqi

//s//

PATRICK J. FLOR
CDR, USN
Military Defense Counsel

Counsel for Mr. al-Libi

//s//

KEVIN BOGUCKI
LCDR, USN
Military Defense Counsel

//s//

JAMES HATCHER
LCDR, USN
Military Defense Counsel

//s//

STERLING THOMAS
Maj, USAF
Military Defense Counsel

//s//

ALLISON C. DANELS
Maj, USAF
Military Defense Counsel

//s//

CHRIS CALLEN
LTC, USA
Military Defense Counsel

Subject: Requests to Improve the Conditions of Confinement in Guantánamo

Encls.

(1) Ltr from Counsel to Mr. Lietzau, Denial of Minimum Guarantees of Common Article 3 at Camp 7, dtd. 24 Feb 2012.

(2) Special Rapporteur for Torture, Report on Solitary Confinement, U.N. GAOR, 66th Sess., Torture, and other cruel, inhuman or degrading treatment or punishment, U.N. Doc. A/66/150 (Aug. 5, 2011).